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Briefings on How To Use the Federal Register
For information on briefings in Washington, DC, and Albuquerque, NM, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ALBUQUERQUE, NM

WHEN: December 8, at 9:00 am
WHERE: University of New Mexico
Continuing Education Bldg., Room 1
1634 University Blvd., NE
Albuquerque, NM
RESERVATIONS: Julie Stone
505-768-3532

WASHINGTON, DC

WHEN: November 30, at 9:00 am
WHERE: Office of the Federal Register
Seventh Floor Conference Room
800 North Capitol Street, NW, Washington, DC
RESERVATIONS: 202-523-4534

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Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law Numbers and the Federal Register Table of Contents is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Presidential Determination No. 92–47 of September 24, 1992

Drawdown of Commodities and Services from the Inventory and Resources of the Department of Defense To Assist Peacekeeping Operations in Nagorno-Karabakh

Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 552(c)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2348a(c)(2) (the "Act"), I hereby determine that:

(1) as a result of an unforeseen emergency, the provision of assistance under Chapter 6 of Part II of the Act in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States; and

(2) such unforeseen emergency requires the immediate provision of assistance under Chapter 6 of Part II of the Act.

I therefore direct the drawdown of commodities and services from the inventory and resources of the Department of Defense of an aggregate value not to exceed $2 million in support of peacekeeping operations in Nagorno-Karabakh.

The Secretary of State is authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.

George Bush

THE WHITE HOUSE,
Washington, September 24, 1992.

[FR Doc. 92–26940
Filed 11–2–92; 3:32 pm]
Billing code 3195–01–M

Presidential Documents

Proclamation 6501 of October 31, 1992

World Population Awareness Week, 1992

By the President of the United States of America

A Proclamation

In the post-Cold War world, one of the key issues that must be addressed is population growth and its impact on resources, environment, and development. Recognizing that population goals and policies should be part of more comprehensive efforts to improve the standards of living of all peoples, to promote social and economic development, human rights, and individual freedom, we focus this week on the links between economic development, environmental degradation, and demographic trends among the world's population.

As the G–7 leaders stated during the 1990 Houston Economic Summit, "sustainable development requires that population growth remain in some reasonable balance with expanding resources." Supporting the efforts of developing countries to maintain this balance is a priority.

As part of a comprehensive economic development assistance program, the United States continues to take a strong position in the global community to address, cooperatively and effectively, issues of poverty, illiteracy, population pressures, environmental degradation, and human health. Recognizing the sovereign right of each nation to respond to its specific needs, and respecting the fundamental rights and cultural and religious beliefs of parents, the United States supplies nearly half of all international assistance provided to support safe, effective, and voluntary family planning programs. In light of worldwide demand for such assistance, we now look to each nation to do its fair share in aiding voluntary population programs, not as ends in themselves, but as measures in support of sustainable development.

Massive urban migration poses a special challenge to the international community today, as urbanization leads to increased demands for infrastructure and services while exacerbating problems such as crime, inadequate health care and pollution. Ensuring environmental sustainability and slowing population growth where it threatens the economic progress that all of us seek are among the commitments that the United States has made together with other members of the international community.

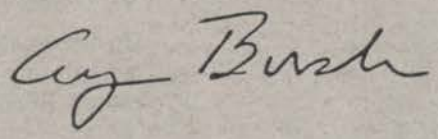
Sustainability is impossible, however, without a healthy, well-educated population—hence the United States supports programs to improve maternal and child health; to expand education, skills training, and disease prevention; to integrate women more fully into the political and economic life of nations; and to target the specific health problems of the poor, which are often aggravated by conditions such as poor sanitation and lack of safe drinking water.

By promoting literacy and good health among individuals, by fostering the strength and stability of families, and by affirming the right of all human beings to live and work in freedom and security, we will continue to promote the health, stability, and progress of their communities and nations.

The Congress, by House Joint Resolution 458, has designated the week beginning October 25, 1992, as "World Population Awareness Week" and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning October 25, 1992, as World Population Awareness Week. I invite all Americans to observe this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



[FR Doc. 92-26955
Filed 11-2-92; 4:35 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6502 of November 1, 1992

Hire a Veteran Week, 1992

By the President of the United States of America

A Proclamation

Less than 2 years ago, Americans watched proudly as our Nation's military personnel led the international effort to liberate Kuwait from brutal occupation by Iraqi forces under the command of Saddam Hussein. From the deployment of nearly half a million active-duty personnel and reservists to the precise aerial bombing and final ground assault against entrenched enemy forces, our Nation's service men and women demonstrated the tremendous courage, professionalism, and skill that we have come to expect of our United States Armed Forces. Now, as we prepare to celebrate Veterans Day, our annual tribute to all those who have served our country in uniform, it is fitting that we recognize the valuable knowledge, experience, and training that our soldiers, sailors, airmen, marines, and Coast Guardsmen have to offer when they reenter civilian life.

Through their outstanding achievements in the Persian Gulf region and elsewhere, America's veterans have helped to change the world. In the past few years, we have seen the collapse of the Berlin Wall, the disintegration of the Warsaw Pact, and the dissolution of the Soviet Union itself—each a resounding vindication of democratic ideals and a clear victory for the Americans who defended the cause of freedom around the globe.

Now that they have helped to change the world, America's veterans can play an important role in achieving continued prosperity and progress here at home. As we restructure our national defense forces in light of new international security requirements, we can ensure that the United States continues to benefit from the knowledge and expertise of its veterans by encouraging their full participation in the civilian work force.

Like every nation, the United States is challenged today by a global economic transition. Because Americans who have served in the military have the discipline, motivation, and skills—including the highly technical skills—that are essential to keeping American business and industry competitive, we do well to recognize the importance of recruiting and hiring veterans.

The Congress, by House Joint Resolution 542, has designated the week of November 8 through November 14, 1992, as "Hire a Veteran Week" and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of November 8 through November 14, 1992, as Hire a Veteran Week. I encourage all Americans—in particular, employers, labor leaders, and public officials—to support the campaign to employ men and women who served our country in the Armed Forces.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

George Bush

[FR Doc. 92-26956
Filed 11-2-92; 4:36 pm]
Billing code 3195-01-M

Rules and Regulations

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2635

RIN 3209-AA04

Standards of Ethical Conduct for Employees of the Executive Branch; Correction

AGENCY: Office of Government Ethics.
ACTION: Final rule correction; correction.

SUMMARY: This document contains one correction to the preamble of the correction document published on Tuesday, October 27, 1992 (57 FR 48557) to the final rule on Standards of Ethical Conduct for Employees of the Executive Branch (see 57 FR 35006–35067 (Aug. 7, 1992)). Due to a typing error, the "SUMMARY" section of that correction document referred to the Office of Government Ethics (OGE) rule on "executive agency ethics training programs" as the regulation being corrected (see 57 FR 11886–11891 (Apr. 7, 1992), as corrected at 57 FR 15219 (Apr. 27, 1992)). In fact, as correctly identified in the heading and amendatory language of the correction document, the OGE regulation on "Standards of Ethical Conduct for Employees of the Executive Branch" (the Standards) was being corrected. This further correction document is being issued to clarify that the Standards regulation was the subject of the correction of October 27, 1992.

EFFECTIVE DATE: October 27, 1992.

FOR FURTHER INFORMATION CONTACT: William E. Gressman, Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005–3917, telephone/FTS (202) 523–5757, FAX (202) 523–6325.

Approved: October 28, 1992.

Stephen D. Potts,

Director, Office of Government Ethics.

Accordingly, the Office of Government Ethics is correcting the October 27, 1992 publication of the correction to the final rule on Standards of Ethical Conduct for Employees of the Executive Branch, which correction was the subject of FR Doc. 92–25875, as follows:

1. On page 48557 of the preamble, in the first column, in the fourth and fifth lines of the **"SUMMARY"** section, the words "executive agency ethics training programs" are corrected to read "Standards of Ethical Conduct for Employees of the Executive Branch".

[FR Doc. 92–26683 Filed 11–3–92; 8:45 am]
BILLING CODE 6345-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 425

[Doc. No. 0111S]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.
ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Peanut Crop Insurance Regulations (7 CFR part 425), effective for the 1993 and succeeding crop years by: (1) Eliminating the contract price election agreement option for additional peanuts; (2) eliminating the reduced production guarantee for unharvested acreage; (3) providing for replanting payments based on actual cost of replanting up to a maximum dollar amount of $80.00 per acre for both quota and additional acreage; and (4) establishing the high non-quota price election as the basis for quality adjusting Segregation II and Segregation III additional (non-quota) peanuts. The intended effect of this rule is to make the replant payment equitable for quota and additional acreage, remove the per acre production guarantee reduction, and preserve the integrity of the peanut program with respect to unnecessarily excessive indemnity payments.

EFFECTIVE DATE: December 4, 1992.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 254–8314.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is February 1, 1997.

James E. Cason, Manager, FCIC, has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) Major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

James E. Cason also certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons. The action will not have a significant economic impact on a substantial number of small entities, or the farmers served by this totally voluntary crop insurance program, because this action does not require significant improvements to the farm. This action imposes no additional burden on the insured farmer, does not require participation in the program, or increase what is currently paid to gain insurance protection.

Further, this section requires nothing from the insured company under an agreement or contract with FCIC beyond what is normal to conduct business. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The Manager, FCIC, has certified to the Office of Management and Budget (OMB) that these final regulations meet the applicable standards provided in section 2(a) and 2(b)(2) of Executive Order 12778.

On Wednesday, February 6, 1991, FCIC published a notice of proposed rulemaking in the **Federal Register** at 56 FR 4738, to revise and reissue the Peanut Crop Insurance Regulations (7 CFR part 425) to:

(1) Change the procedure for quality adjustment for non-quota (additional) Seg II and Seg III peanuts NOT ELIGIBLE for transfer as quota peanuts;

(2) Change the procedure for quality adjustment for Seg II and III peanuts ELIGIBLE for transfer as quota peanuts;

(3) Change procedure for quality adjustment for mature peanut production;

(4) Remove language applying to unharvested acreage production guarantee reduction;

(5) Extend the premium discount through 1992;

(6) Increase acreage qualifications for a replant payment from 10 acres or 10 percent to 20 acres or 20 percent;

(7) Provide that peanuts damaged due to insurable causes must have a value per pound of less than 90 percent of the average price support price per pound to be considered eligible for quality adjustment.

(8) Remove the "excess appraisal" language in 9.f.(4)(c), previously used for acreage having an unharvested guarantee;

(9) Provide language to specify minimum acreage, or percentage of acreage; necessary to qualify for a replant payment consistent with the replant payment requirements for other crops (20 acres or 20 percent);

(10) Add definitions for "Average price per pound" and "Average price support per pound" to clarify the meaning of these terms;

(11) Redefine the meaning of "harvest" to eliminate the requirement to dig at least 250 pounds or 20 percent of production guarantee to qualify for the harvested production guarantee, redesignate subsections (g), (h), (i), (j), and (k), as (i), (j), (k), (l), and (m), and add definition for "Replant payment"; and

(12) Redefine "value per pound" to clarify the term with respect to Segregation II and III peanuts.

FCIC solicited public comment on the proposed rule for 30 days following its publication. On Monday, March 18, 1991, FCIC published a notice in the **Federal Register** at 56 FR 11375 to extend the comment period from the original expiration date of March 8, 1991, to April 17, 1991.

FCIC published an additional notice of proposed rulemaking in the **Federal Register** on Tuesday, November 19, 1991, at 56 FR 58323. In the notice, FCIC rescinded its proposal to eliminate quality adjustments with a value of 90 percent or more of the applicable average quota support price per pound and stated that it believed that adjustment for quality on a unit basis would be more equitable. FCIC solicited public comment for 30 days but none were received.

A total of 38 responses were received from representatives of the peanut industry, peanut producers, and the insurance industry. The responses were largely directed toward the proposals to:

(1) Revise the replant qualifying requirement from 10 acres and 10 percent to 20 acres and 20 percent;

(2) Establishing the Quota Support Price as the price to be used for quality adjusting Segregation II and Segregation III (non-quota) additional peanuts eligible for disaster transfer; and

(3) Establishing 90 percent of the average quota support price as the level above which no quality adjustment would be allowed.

Other than minor language and format changes in the proposed rule, seven principal issues were addressed by the respondents. These comments are addressed in this final rule, as follows:

1. *Comment:* Elimination of the contract price election agreement option for (non-quota) additional peanuts.

Two respondents from the peanut industry disagreed with the proposal and two from the insurance industry agreed.

FCIC Response: FCIC offers crop insurance coverage on peanuts based on a contract price election agreement option for non-quota (additional) peanuts which must be executed before the peanuts are planted. Many growers have complained that FCIC requires the policyholder to have an executed contract too early. The Agricultural Stabilization and Conservation Service (ASCS) contract dates were July 31 for the 1990 crop year, and were even later for the 1991 crop year.

The insured growers argue that because FCIC requires the contract so early, they are unable to obtain the highest price. There also appears to be confusion on an average contract price because Virginia peanuts, Runner peanuts, and Spanish peanuts will be contracted at different prices.

FCIC agrees with the concept that the contract price election agreement is unnecessary. In view of the potential for inequity, FCIC has eliminated the contract price election agreement from the policy. This action is designed to simplify the program and eliminate confusion.

2. *Comment:* Eliminate the reduction in guarantee for peanuts when acreage is not harvested.

Two respondents from the insurance industry submitted comments; one for and one against the proposal.

FCIC Response: The current peanut policy provides that the production guarantee per acre will be reduced by the lesser of 250 pounds or 20 percent for any unharvested acreage. This has resulted in grower confusion and dissatisfaction. FCIC proposed that the provision for reduced production guarantee for unharvested acreage be removed, thus simplifying the program. Any potential production in unharvested acreage will be appraised and the production charged against the guarantee. FCIC has removed this provision in the final rule.

Comment: Provide a fixed dollar amount replant payment.

Two respondents from the insurance industry agreed with FCIC's proposal.

FCIC Response: The current policy provides for a replanting payment in the amount of actual cost per acre up to the lesser of 250 pounds or 20 percent of the production guarantee, multiplied by the applicable price election. This has resulted in different replanting payments for quota and non-quota acreage even though the actual cost of replanting is the same for both. FCIC proposed to change the replant payment method of calculation to a fixed dollar amount (the actual cost per acre but not to exceed $80.00 per acre). FCIC believes that this method will provide equal treatment for replanting on both quota and non-quota peanuts and has changed the policy to implement this provision.

4. *Comment:* Revise the acreage requirement to qualify for replant payments from 10 acres or 10 percent to 20 acres or 20 percent.

One grower and two insurance company respondents disagreed with this proposal.

FCIC Response: Possible inequities were noted in comments relating to small unit size in some areas and the unequal cost relationship between peanuts and other row crops. The commenters believed that insureds in these situations would be adversely impacted by the 20 acre or 20 percent

requirement. Because of the unequal cost relationships between peanuts and other row crops, and in view of the potential adverse impact on small unit peanut crops, FCIC has determined not to increase the requirements of this provision. The minimum acreage replant requirement will remain at 10 acres or 10 percent.

5. *Comment:* Change the basis for quality adjustment for Segregation II and Segregation III Non-quota (Additional) peanuts to use the high non-quota price election in place of the applicable support price. One grower and two insurance companies disagreed with FCIC's proposal on the basis that it might be perceived as a relationship between price election and loss of quality and may adversely affect participation in the program.

FCIC's Response: FCIC believes that, perceptions of the commenters notwithstanding, using the high non-quota price election in place of the applicable price support will reduce indemnities involving Segregation II and Segregation III peanuts. Loss value will be more accurately reflected, providing insureds a more fair and equitable return.

6. *Comment:* Change the basis for quality adjustment for Segregation II and Segregation III peanuts eligible for quota transfer.

This proposal generated disagreement from 25 growers, 6 peanut industry, and 3 insurance company respondents. Producers who have quota pounds of peanuts left on the farm have the option of transferring the peanuts to the Disaster Pool and receiving the quota support less $25.00 per ton for the peanuts. These peanuts would be considered quota peanuts. This proposal would have allowed FCIC to use the per load graded quota support price less $25.00 per ton as the value per pound for determining quality adjustment on any Seg II and III peanuts eligible for Disaster Transfer as quota peanuts. This procedure would not require the producer to transfer the Seg II and III peanuts to a Disaster Quota pool, but would use this value in adjusting quality if the peanuts were eligible for quota transfer.

FCIC Response: FCIC will not implement the proposed change. Given the strong opposition to the proposal, FCIC re-examined the concept and found it to be inconsistent with the insurance product. Insurance protection is offered at the quota support price and a premium rate is charged commensurate with the risks assumed by the insurer. The proposal would shift financial responsibility for indemnifying peanut losses to the ASCS, while the insurer retained premiums. This result would be inappropriate. FCIC has determined that ASCS and crop insurers provide similar guarantees for peanut producers, both of which involve substantial subsidies. FCIC has pursued discussion with ASCS to evaluate the adoption of a mechanism to count indemnified peanuts against quota allotments in a manner consistent with ASCS practices. This approach, if adopted, will ensure peanut producers an opportunity to receive subsidized price guarantees for quota peanuts, but will prevent producers from receiving this benefit twice (once through insurance indemnities and then subsequently through the use of retained quota).

7. *Comment:* Eliminate quality adjustment on peanuts with a value of 90 percent or more of the applicable average quota support price per pound.

One grower, one peanut industry, and three insurance industry commenters disagreed with FCIC's proposal to eliminate quality adjustments for peanuts with values less than applicable average quota support price.

FCIC Response: FCIC will not implement this change because it has determined it would drastically alter a longstanding method of adjustment creating dissatisfaction among insureds and, while possibly providing a reduction in administrative costs of the program with fewer quality determinations, would do so with relatively few benefits for FCIC at the expense of the insured.

Further evaluation of the additional proposal, contained in the November 19, 1991, publication, indicates that the proposal would generate additional workload with minimal changes in financial results for the program. Therefore, FCIC will retain its current procedure of determining quality adjustments on a per load basis.

Finally, FCIC has determined to add one additional definition to the Peanut Crop Insurance regulations for clarification purposes. The term "written agreement," as used in these and other regulations issued by FCIC, has not been properly defined. FCIC allows minor variations from the terms and conditions of some of its policies for insurance by mutual agreement between the FCIC and the insured. This is accomplished by a written agreement or form executed between both parties and is provided for in the policy. This non-substantive additional definition, while not contained in the proposed rule, is thought to be of sufficient importance to be set out in these regulations.

List of Subjects in 7 CFR Part 425

Crop Insurance; Peanuts.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation hereby revises and reissues the Peanut Crop Insurance Regulations (7 CFR part 425), effective for the 1993 and succeeding crop years, to read as follows:

PART 425—PEANUT CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1993 and Succeeding Crop Years

Sec.

Authority: 7 U.S.C. 1506, 1516.

§ 425.1 Availability of peanut crop insurance.

Insurance shall be offered under the provisions of this subpart on peanuts in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 425.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities will be computed.

(a) The Manager will establish premium rates, production guarantees, coverage levels, and prices at which indemnities will be computed for peanuts which will be shown on the actuarial table on file in applicable service offices and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 425.3 OMB control numbers.

Office of Management and Budget (OMB) control numbers are contained in subpart H to part 400 in title 7 CFR.

§ 425.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien,

mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 425.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the peanut insurance contract, whenever:

(a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums, or

(2) Has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that:

(1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said insured person relied thereon in good faith; and

(3) To require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto. Application for relief under this section must be submitted to the Corporation in writing.

§ 425.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract will cover the peanut crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 425.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the peanut crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the application service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1991 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a peanut contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1993 and succeeding crop years is found at subpart D of part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Peanut Insurance Policy for the 1993 and succeeding crop years are as follows:

Department of Agriculture, Federal Crop Insurance Corporation, Peanut Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to Insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Corp Insurance Corporation.

Terms and Conditions

1. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from any of the following causes occurring within the insurance period:
   (1) Adverse weather conditions;
   (2) Fire;
   (3) Insects;
   (4) Plant disease;
   (5) Wildlife;
   (6) Earthquake;
   (7) Volcanic eruption; or
   (8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or § 9.f(7).

b. We will not insure against any loss of production due to:
   (1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants or employees;
   (2) The failure to follow recognized good peanut farming practices;
   (3) Failure to market the peanuts unless such failure is due to actual physical damage from a cause specified in subsection 1.a;
   (4) The impoundment of water by any governmental, public or private dam or reservoir project; or
   (5) Any cause not specified in section 1.a as an insured loss.

2. Crop, Acreage, and Share Insured

a. The crop insured will be peanuts planted for the purpose of digging, maturing, and marketing as farmers' stock peanuts, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.
b. The acreage insured for each crop year will be peanuts planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.
c. The insured share will be your share as landlord, owner-operator, or tenant in the insured peanuts at the time of planting.
d. We do not insure any acreage:
   (1) Not planted to a type of peanuts designated as insurable by the actuarial table;
   (2) On which the peanuts were destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;
   (3) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;
   (4) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as non-irrigated by reporting it as insurable under section 3;
   (5) Which is destroyed, it is practical to replant to peanuts, and such acreage is not replanted;
   (6) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction; or
   (7) Planted for experimental purposes.
e. If insurance is provided for an irrigated practice:
   (1) You must report as irrigated only the acreage for which you have adequate facilities and water to carry out a good peanut irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good peanut irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, Share, Poundage Quota, and Practice

You must report on our form:

a. All the acreage of peanuts in the county in which you have a share;
b. The practice;
c. Your share at the time of planting; and
d. The effective poundage marketing quota, if any, applicable to the unit for the current crop year as provided under ASCS Peanut Marketing Quota Regulations.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any peanuts planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.
b. Coverage level 2 will apply if you have not elected a coverage level.
c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual Premium

a. The annual premium is earned and payable at the time of planting. The amount of premium is computed by multiplying the production guarantee for the unit (insured acreage times the applicable production guarantee), which may consist of quota and non-quota (additional) peanuts, times the applicable price election, times the premium rate, times your share at the time of planting, times any applicable premium adjustment percentage for which the insured may qualify as shown on the actuarial table.
b. Interest will accrue at the rate of one and one-quarter percent (1¼%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.
c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the Experience Table contained in the peanut policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:
(1) No premium reduction will be retained after the 1993 crop year;
(2) The premium reduction will not increase because of favorable experience;
(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the 1984 policy;
(4) Once the loss ratio exceeds .80 no further premium reduction will apply; and
(5) Participation must be continuous.

6. Deductions for Debt

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period

Insurance attaches when the peanuts are planted and ends at the earliest of:

a. Total destruction of the peanuts;
b. Threshing or removal from the field;
c. Final adjustment of a loss; or
d. The following dates immediately after planting:
(1) Duval and La Salle Counties, Texas—November 30;
(2) New Mexico, Oklahoma and all other Texas counties—December 31;
(3) All other states—November 30.

8. Notice of Damage or Loss

a. In case of damage or probable loss:
(1) You must give us written notice if:
(i) You want our consent to replant peanuts damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted must be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);
(ii) During the period before threshing, the peanuts on any unit are damaged and you decide not to further care for or thresh any part of them;
(iii) You want our consent to put the acreage to another use; or
(iv) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the peanuts and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.
(3) If probable loss is later determined, immediate notice must be given. A representative sample of the unharvested peanuts (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.
(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:
(i) Total destruction of the peanuts on the unit;
(ii) The completion of harvest or otherwise disposing of the peanuts on the unit; or
(iii) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the peanuts on which a replanting payment will be claimed until we give consent.
c. You must obtain written consent from us before you destroy any of the peanuts which are not to be harvested.
d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for Indemnity

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:
(1) Total destruction of the peanuts on the unit;
(2) Completion of harvest or otherwise disposing of the peanuts on the unit; or
(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:
(1) Establish the total production of peanuts on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and
(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:
(1) Multiplying the insured acreage by the production guarantee;
(2) Subtracting therefrom the total production of peanuts to be counted (see section 9f);
(3) Multiplying this remainder applicable to quota and/or non-quota (additional) production by the applicable price election; and
(4) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.
e. The total production to count will be identified as quota and/or non-quota (additional) production by:
(1) Counting all threshed and appraised production less than or equal to the unit's effective poundage quota as quota

production unless the peanuts grade Segregation II or III and their inclusion as quota peanuts is waived by the producer; and

(2) Counting any threshed and appraised production in excess of the unit's effective poundage quota as non-quota (additional) production.

f. The total production to be counted for a unit will include all threshed and appraised production.

(1) Threshed production will be the net weight in pounds shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum".

(2) Mature peanut production which is damaged due to insurable causes will be adjusted by:

(i) Dividing the value per pound for the insured type of peanuts by the applicable average price per pound; FCIC will count production against the highest valued peanuts first (based on price election) and the lowest valued peanuts last. FCIC will use the maximum non-quota price election to quality to adjust segregation I and segregation II non-quota peanuts; and

(ii) Multiplying the result by the number of pounds of such production.

(3) To enable us to determine the net weight and quality of production of any peanuts for which a United States Department of Agriculture "Inspection Certificate and Sales Memorandum" has not been issued, we must be given the opportunity to have such peanuts inspected and graded before you dispose of them. If you dispose of any production without giving us the opportunity to have the peanuts inspected and graded, the gross weight of such production will be used in determining total production to count unless you submit a marketing record satisfactory to us which clearly shows the net weight and quality of such peanuts.

(4) Appraised production to be counted will include:

(i) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good peanut farming practices;

(ii) Not less than the guarantee for any acreage which is abandoned or put to another use (other than harvest) without our prior written consent or damaged solely by an uninsured cause; and

(iii) Appraised production on all other unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(i) Not put to another use before harvest of peanuts becomes general in the county;

(ii) Harvested; or

(iii) Further damaged by an insured cause before the acreage is put to another use.

(6) The amount of production of any unharvested peanuts may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you have elected to exclude hail and fire as insured causes of loss and the peanuts are damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(8) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. A replanting payment may be made on any insured peanuts replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(i) On which our appraisal exceeds 90 percent of the guarantee;

(ii) Initially planted prior to the date we determine reasonable; or

(iii) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting but will not exceed $80.00 per acre, multiplied by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

h. You must not abandon any acreage to us.

i. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

j. We will pay the loss within 30 days after we reach agreement with you on entry of a final judgment. In no instance will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

k. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the peanuts are planted for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

l. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purposes of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right to Indemnity on Insured Share

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation (Recovery of Loss From a Third Party)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and Access to Farm

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all peanuts produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before the cancellation date. If the insured, prior to the cancellation date, shows, to our satisfaction, that records are unavailable due to conditions beyond the insured's control, such as fire, flood or other natural disaster, the Field Actuarial Office may assign a yield for that year. The assigned yield will not exceed the ten-year average.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and set off are approved.

e. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Dual and La Salle Counties, Texas...	February 15.
New Mexico; Oklahoma; Brown, Baylor, Callahan, Collingsworth, Commanche, Dallam, Eastland, Erath, Gaines, Garza, Hood, Jones, Montague, Motley, Palo Pinto, Parker, Somervell and Stonewall Counties, Texas and Virginia.	April 15.
All other Texas counties and all other states.	March 31.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for three consecutive years.

16. Contract Changes

We may change any of the terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with a April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of Terms

For the purposes of peanut crop insurance:

a. *Actuarial table*—The forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding peanut insurance in the county.

b. *ASCS*—The Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. *Average price per pound*—

(1) The average Community Credit Corporation (CCC) price support per pound, by type, for Segregation I, Segregation II and III peanuts eligible to be valued as quota peanuts; or

(2) The highest non-quota price election provided by us for all CCC non-quota (additional) Segregation II and III peanuts.

d. *Average price support per pound*—The average price support level per pound by type for quota peanuts as announced by the United States Department of Agriculture under the peanut price support program.

e. *County*—The county shown on the application and:

(1) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(2) Any land identified by an ASCS farm serial number for the county but physically located in another county.

f. *Crop year*—The period within which the peanuts are normally grown and will be designated by the calendar year in which the peanuts are normally harvested.

g. *Effective poundage marketing quota*—The farm marketing quota as established and recorded by ASCS.

h. *Harvest*—The completion of combining or threshing of peanuts.

i. *Insurable acreage*—The land classified as insurable by us and shown as such by the actuarial table.

j. *Insured*—The person who submitted the application accepted by us.

k. *Loss ratio*—The ratio of indemnity to premium.

l. *Person*—An individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

m. *Replanting*—Performing the cultural practices necessary to replant insured acreage to the same crop.

n. *Replant payment*—That payment made to the insured in accordance with the provisions of section 8 of this policy which is subject to offset for premium owed.

o. *Service office*—The office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

p. *Tenant*—A person who rents land from another person for a share of the peanuts or a share of the proceeds therefrom.

q. *Unit*—All insurable acreage of peanuts in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number at the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconstitution was in whole or part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy. Errors in reporting units may be corrected by us when adjusting a loss.

r. *Value per pound*—The "value per pound including loose shell kernels", as shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum," except for Segregation II, III and non-quota (additional) peanuts for which the value per pound will be determined by us.

s. *Written agreement*—An agreement in writing between you and us which is in accordance with FCIC policy.

18. Descriptive Headings

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

21. Written Agreements

If provided for under the terms and conditions of the policy, written agreements between FCIC and the policyholder will be in accordance with the provisions of official procedures issued by FCIC.

Done in Washington, DC on September 1, 1992.

David L. Bracht,

Associate Manager, Federal Crop Insurance Corporation.

[FR Doc. 92-26600 Filed 11-3-92; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 25758; Amdt. No. 93-66]

RIN 2120-AD93

High Density Traffic Airports; Slot Allocation and Transfer Methods

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT)

ACTION: Final rule; delay of effective date.

SUMMARY: On August 12, 1992, the Federal Aviation Administration (FAA) issued a final rule amending the Federal Aviation Regulations governing the allocation and transfer of air carrier and commuter slots effective November 1, 1992 (57 FR 37308; August 18, 1992). Congress subsequently passed a bill postponing the effective date of the rule until January 1, 1993. In view of the pendency of this legislation, this action delays the rule's effective date until January 1, 1993, to remove uncertainty about when compliance will be required.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591. Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION: On August 12, 1992, The Federal Aviation Administration (FAA) issued a final rule amending the Federal Aviation Regulations governing the allocation and transfer of air carrier and commuter slots effective November 1, 1992 (Amendment No. 93-65; 57 FR 37308; August 18, 1992). A "slot" is the authority to conduct an instrument flight rule (IFR) landing or takeoff during certain periods at four high density traffic airports: JFK International, LaGuardia, O'Hare International, and Washington National. The rule changes the slot lottery and withdrawal procedures to enhance the opportunities for carriers holding no or few slots at a high density airport to obtain the necessary authority to conduct landings and takeoffs at the airport. The rule also increases the minimum slot use requirements from 65% to 80%.

Section 206 of the FAA reauthorization bill (H.R. 6168), passed by Congress on October 8, 1992, provides that this rule shall take effect January 1, 1993. The pendency of this legislation renders uncertain the date when persons subject to the rule will need to comply with the amended provisions. This action is needed to remove that uncertainty.

Because the public needs to be made aware of this postponement immediately, notice and public procedure are impracticable and good cause exists for making the postponement effective in less than 30 days.

In consideration of the foregoing, the effective date of Amendment No. 93-65 (57 FR 37308; August 18, 1992) is delayed from November 1, 1992, to January 1, 1993.

Issued in Washington, DC on October 30, 1992.

Thomas C. Richards,

Administrator.

[FR Doc. 92-26799 Filed 10-30-92; 4:53 pm]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Part 205

[Docket No. 47939]

RIN 2105-AB84

Aviation Economic Rules

AGENCY: Office of the Secretary, Transportation.

ACTION: Correction to final rule.

SUMMARY: This document contains a correction to the final rule issued in Docket 47939, which was published Wednesday, September 2, 1992 (57 FR 40097). The rule relates to minimum aircraft accident liability coverage for air taxi operators in 14 CFR 205.5(c)(2).

EFFECTIVE DATE: November 4, 1992.

FOR FURTHER INFORMATION CONTACT: Carol A. Woods, Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

SUPPLEMENTARY INFORMATION:

Background

The final rule that is the subject of this correction (14 CFR Part 205—Aircraft Accident Liability Insurance) was issued by the Department of Transportation on August 20, 1992 (57 FR 40097, September 2, 1992), in order to make technical corrections, eliminate obsolete terms and provisions, and provide better organization for a number of its aviation economic regulations. As part of this effort, the aircraft accident liability insurance regulations for air taxi operators, previously contained in subpart E of part 298, were amended and relocated to part 205. Specifically, § 205.5(c)(2), as amended, sets forth the minimum aircraft accident liability insurance coverage that air taxi operators must maintain for bodily injury to or death of aircraft passengers.

Need for Correction

As published in the final rule, § 205.5(c)(2) requires air taxi operators to maintain passenger liability insurance with total minimum limits per involved aircraft for each occurrence of $300,000 times 75 percent of the number of passenger seats installed in the aircraft. The number $300,000 is incorrect and should read $75,000. In proposing changes in the insurance regulations for air taxi operators, the Department specifically excluded any increase in the minimum limits required.

Correction of Publication

Accordingly, the publication on September 2, 1992, of the final rule in Docket 47939 (57 FR 40097) is corrected as follows:

§ 205.5 [Corrected]

On page 40101, in the second column, in § 205.5(c)(2), line 10, the number "$300,000" is corrected to read "$75,000".

Issued in Washington, DC, on October 28, 1992.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 92-26685 Filed 11-3-92; 8:45 am]

BILLING CODE 4910-62-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Room Air Conditioners

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces that the present ranges of comparability for room air conditioners will remain in effect until new ranges are published.

Under the Appliance Labeling Rule, each required label on a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. The Commission publishes the ranges annually in the **Federal Register**

if the upper or lower limits of the ranges change by 15% or more from the previously published ranges. If the Commission does not publish revised ranges, it must publish a notice that the prior ranges will be applicable until new ranges are published. The Commission is today announcing that the ranges published on September 22, 1989, for room air conditioners will remain in effect until new ranges are published.

EFFECTIVE DATE: November 4, 1992.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Commission issued a final rule,[1] pursuant to section 324 of the Energy Policy and Conservation Act of 1975,[2] covering certain appliance categories, including room air conditioners. The rule requires that energy costs and related information be disclosed on labels and in retail sales catalogs for all room air conditioners presently manufactured. Certain point-of-sale promotional materials must disclose the availability of energy usage information. If a room air conditioner is advertised in a catalog from which it may be purchased by cash, charge account or credit terms, then the range of estimated annual energy costs for the product must be included on each page of the catalog that lists the product. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of test procedures developed by the Department of Energy, which are referenced in the rule.

Sec 305.8(b) of the rule requires manufacturers to report the energy usage of their models annually by specified dates for each product type.[3] Because the costs for the various types of energy change yearly, and because manufacturers regularly add new models to their lines, improve existing models and drop others, the data base from which the ranges of comparability are calculated is constantly changing.

To keep the required information in line with these changes, the Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for room air conditioners have been received and analyzed and it has been determined to retain the ranges that were published on September 22, 1989.[4] In consideration of the foregoing, the present ranges for room air conditioners will remain in effect until the Commission publishes new ranges for these products.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305—[AMENDED]

The authority citation for part 305 continues to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act, (Pub. L. 100–12) (1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100–357) (1988), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92–26758 Filed 11–3–92; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8376]

RIN 1545–AL23

Qualified Separate Lines of Business; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations which were published in the **Federal Register** for Wednesday, December 4, 1991 (56 FR 63420). The final regulation relates to qualified retirement plans maintained by an employer under section 414(r) of the Internal Revenue Code of 1986.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Thomas G. Schendt, (202) 622–6060 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This final regulation modifies all proposed amendments to the Income Tax Regulations (26 CFR part 1) under section 414(r) and related provisions of the Internal Revenue Code of 1986.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR 1.401–0 through 1.419(A)–2T

Bonds, Employee benefit plans, Income taxes, Pensions, Reporting and recordkeeping requirements, Securities, Trusts and trustees.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendment:

Paragraph 1. The authority citation for part 1 continues to read in part:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.414(r)–8(b)(2)(iii) is revised to read as follows:

§ 1.414(r)–8 Separate application of section 410(b).

* * * * *

(b) * * *

(2) * * *

. (iii) *Application of unsafe harbor percentage to plans satisfying ratio percentage test at 90 percent level.* If a plan benefits a group of employees for a plan year that would satisfy the ratio percentage test of § 1.410(b)–2(b)(2) on a qualified-separate-line-of-business basis under paragraph (b)(3) of this section if the percentage were increased to 90 percent, the unsafe harbor percentage in § 1.410(b)–4(c)(4)(ii) may be reduced by five percentage points (not five percent) for the plan year and may be applied without regard to the requirement that the unsafe harbor percentage not be less than 20 percent. Thus, if the requirements of this paragraph (b)(2)(iii) are satisfied, the unsafe harbor percentage in § 1.410(b)–4(c)(4)(ii) may be treated as 35 percent, reduced by ¾ of a percentage point for each whole percentage point by which the nonhighly

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[1] 44 FR 66466, 16 CFR 305.

[2] Pub. L. 94–163, 89 Stat. 871 (Dec. 22, 1975).

[3] Reports for room air conditioners are due by May 1.

[4] 54 FR 38966.

compensated employee concentration percentage exceeds 60 percent.

* * * * *

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 92-26153 Filed 11-3-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Part 60-2

Affirmative Action Programs

AGENCY: Office of Federal Contract Compliance Programs, Department of Labor.

ACTION: Policy statement.

SUMMARY: The purpose of this policy statement is to notify Federal contractors and subcontractors covered by the written affirmative action program provisions of Executive Order 11246, as amended, that the detailed occupational data from the 1990 Census of the Population, Equal Employment Opportunity Special File is to be used in affirmative action programs beginning January 1, 1993.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Annie A. Blackwell, Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, 200 Constitution Avenue, NW., room C3325, Washington, DC 20210. Telephone: 202/219-9430 (voice), 1-800-326-2577 (TDD).

SUPPLEMENTARY INFORMATION: Under the requirements for Executive Order 11246, as amended, 41 CFR part 60-2, § 2.11 Required Utilization Analysis, specifies the data analyses to be completed by contractors and subcontractors that are required by 41 CFR part 60-2 to develop a written affirmative action program. Section 2.11 requires covered contractors and subcontractors to prepare a utilization analysis of its workforce. This analysis is a comparison of the number of minorities and women in job groups in the contractor's workforce with the availability for those jobs. The contractor is obligated to use the best available data.

The U.S. Department of Commerce, Bureau of the Census has released to the public, the detailed occupational data from the 1990 Census of the Population. These data are available in the 1990 Census of the Population, Equal Employment Opportunity Special File (Special EEO file). The data in the special EEO file are configured to meet the requirements of affirmative action planning by including data on minority workers.

Therefore, all written affirmative action programs developed or updated after December 31, 1992, must use the 1990 Census of the Population, Special EEO file rather than from the previous census.

Signed October 29, 1992, Washington, DC.

Jaime Ramon,

Director, OFCCP.

[FR Doc. 92-26729 Filed 11-3-92; 8:45 am]

BILLING CODE 4510-27-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 81

RIN 3067-AB87

List of Jurisdictions Eligible for Sale of Crime Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This final rule amends the list of jurisdictions in which there exists a critical crime insurance availability problem that has not been resolved at the local level and deletes from eligibility under the Federal Crime Insurance Program the jurisdictions of Alabama, Connecticut, and Georgia, making their citizens ineligible to purchase Federal crime insurance policies against burglary and robbery losses on and after December 1, 1992. The Federal Insurance Administrator has determined there is no longer a critical crime insurance availability problem in these jurisdictions.

EFFECTIVE DATE: December 1, 1992.

FOR FURTHER INFORMATION CONTACT: Kimber A. Wald, Federal Insurance Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3440.

SUPPLEMENTARY INFORMATION: A proposed rule was published at 57 FR 32192 on July 21, 1992, based upon the Administrator's continuing review of the extent of any critical problem of crime insurance availability in the various jurisdictions. This action follows contact with Alabama, Connecticut, Georgia, Puerto Rico, and the Virgin Islands.

Written comments were received from Virgin Islands Lieutenant Governor Derek M. Hodge reaffirming the Territory's position that the program should be reinstated.

Oral comments were received from various insurance professionals in the Commonwealth of Puerto Rico stating that the program was still needed. As a result, it was decided to remove Puerto Rico from consideration as a jurisdiction to be deleted.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule is not expected (1) to adversely affect the availability of crime insurance to small entities, (2) to have significant secondary or incidental effects on a substantial number of small entities, and (3) to create any additional burden on small entities. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 81

Crime insurance.

Accordingly, 44 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 12 U.S.C. 1749bbb et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

2. Section 81.1 is amended by revising paragraph (b)(1) to read as follows:

§ 81.1 States eligible for the sale of crime insurance.

* * * * *

(b)(1) On the basis of the information available, the Federal Insurance Administrator has determined that the District of Columbia, Puerto Rico, the Virgin Islands, and the states set forth in this paragraph have an unresolved critical crime insurance market unavailability problem requiring the operation of the Federal Crime Insurance Program therein as of December 1, 1992: California, Florida, Illinois, Kansas, Maryland, New Jersey, New York, Pennsylvania, District of Columbia, Puerto Rico, Virgin Islands.

* * * * *

Dated: October 7, 1992.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 92-26749 Filed 11-3-92; 8:45 am]

BILLING CODE 6718-21-M

DEPARTMENT OF DEFENSE

48 CFR Parts 222 and 252

Defense Federal Acquisition Regulation Supplement; Closure of Military Installations

AGENCY: Department of Defense (DoD).

ACTION: Interim rule with request for comments.

SUMMARY: The Defense Acquisition Regulations Council has agreed on an interim rule that revises the Defense Federal Acquisition Regulation Supplement (DFARS) to add a new subpart prescribing policies and procedures for use in providing civil service employees a right of first refusal for jobs resulting from the closure of military installations.

DATES: *Effective date.* October 26, 1992.

Comment date: Comments on the interim rule should be submitted in writing to the address shown below on or before December 4, 1992 to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Michele Peterson, OUSD(A), 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 697-9845. Please cite DFARS Case 92-D029 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, (703) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

It is the policy of the Department of Defense to reduce the adverse impact on civil service employees affected by the closure of military installations. A new DFARS Subpart 222.71, Closure of Military Installations, is added to address this policy. A new contract clause, Right of First Refusal of Employment—Closure of Military Installations, is added at 252.222-7001. This clause provides employment rights to Government employees who are adversely affected by the closure of a military installation.

B. Regulatory Flexibility Act

The interim rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule will benefit contractors by providing a pool of qualified personnel to fill job openings under contracts for base closure efforts. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 92-610 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the interim rule does not impose any information collection requirements which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

D. Determination to Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense to issue this regulation as an interim rule. Urgent and compelling reasons exist to promulgate this rule before affording the public an opportunity to comment because it is necessary to ensure that contracts awarded for base closure efforts provide right of first refusal of employment to adversely affected Government employees. However, pursuant to Public Law 98-577 and FAR 1.501, public comments received in response to this interim rule will be considered in formulating the final rule.

List of Subjects in 48 CFR Parts 222 and 252

Government procurement.

Claudia L. Naugle,

Executive Editor, Defense Acquisition Regulations System.

Therefore, CFR parts 222 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 222 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, and Defense FAR Supplement 201.301.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

2. Subpart 222.71 is added to read as follows:

Subpart 222.71—Closure of Military Installations

Sec.

Subpart 222.71—Closure of Military Installations.

222.7100 Scope of subpart.

This subpart prescribes policies and procedures for use in acquisitions arising from closure of military installations.

222.7101 Policy.

(a) DoD policy is to minimize the adverse impact on civil service employees affected by the closure of military installations. One means of implementing this policy is to give employees adversely affected by closure of a military installation the right of first refusal for jobs created by award of contracts arising from the closure effort that the employee is qualified to fill.

(b) Closure efforts include the acquisitions for preparing the installation for closure (such as environmental restoration and utilities modification) and maintaining the property after closure (such as security and fire prevention services).

222.7102 Contract clause

Use the clause at 252.222-7001, Right of First Refusal of Employment—Closure of Military Installations, in all solicitations and contracts arising from the closure of the military installation where the contract will be performed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.222-7001 is added to read as follows:

252.222-7001 Right of First Refusal of Employment—Closure of Military Installations.

As prescribed in 222.7102, use the following clause:

Right of First Refusal of Employment—Closure of Military Installations (Oct 1992)

(a) The Contractor shall give Government employees, adversely affected by the closure of the military installation where this contract will be performed, the right of first refusal for employment openings under the contract. This right applies to positions for which the employee is qualified, if consistent with post-Government employment conflict of interest standards.

(b) Government personnel seeking preference under this clause shall provide the Contractor with evidence from the Government personnel office.

(End of clause)

[FR Doc. 92-26790 Filed 11-3-92; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the Gulf of Alaska (GOA) except for demersal shelf rockfish in the Southeast Outside District. This action is necessary because the annual allocation of prohibited species catch (PSC) of Pacific halibut to other hook-and-line fisheries in the GOA has been caught.

EFFECTIVE DATE: Effective 12 noon, Alaska local time (A.l.t), October 30, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Alaska Region, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The final notice of 1992 initial specifications for the GOA (57 FR 2844, January 24, 1992) established the 1992 Pacific halibut PSC limit for hook-and-line gear at 750 metric tons (mt). In accordance with § 672.20(f)(2) the 750 mt limit was apportioned between the demersal shelf rockfish fishery in the Southeast Outside District of the Eastern Regulatory Area which was allocated 10 metric tons and all other hook-and-line fisheries in the GOA, which were allocated 740 metric tons.

The Regional Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(f)(1)(ii), that hook-and-line vessels in the GOA have caught the apportionment of Pacific halibut PSC to hook-and-line fisheries in the GOA. Therefore, NMFS is prohibiting directed fishing for groundfish by vessels using hook-and-line gear in the GOA, except demersal shelf rockfish in the Southeast Outside District, from 12 noon, A.l.t., October 30, 1992, through 12 noon, A.l.t., December 31, 1992.

Classification

This action is taken under 50 CFR 672.20, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 30, 1992.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-26744 Filed 10-30-92; 12:40 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 214
Wednesday, November 4, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV-92-330]

Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products; Regulations Governing Inspection and Certification [1]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Certain Other Products by increasing the fees charged for the inspection of processed fruits and vegetables and certain other products. The proposed fees would recover the costs of performing inspection services, as authorized by the Agricultural Marketing Act of 1946.

DATES: Comments must be received on or before December 4, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 0709 South Building, Washington, DC 20090–6456. Comments should note the date and page number of this issue of the Federal Register and will be made available for public inspection in the office of the Branch Chief during regular business hours.

FOR FURTHER INFORMATION CONTACT: Mr. Raymondo O'Neal, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, room 0709 South Building, Washington, DC 20090–6456. Telephone (202) 720–5021.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are not administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The Administrator, Agricultural Marketing Service (AMS), has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Public Law 96–354 (5 U.S.C. 601).

The proposed rule reflects fee increased needed to recover the costs of services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946. Furthermore, the inspection, grading and certification program for processed fruits and vegetables and related products is voluntary.

The AMA authorizes voluntary official inspection, grading, and certification on a user-fee basis, of processed food products including processed fruits, vegetables, and processed products made from them. The AMA provides that reasonable fees be collected from the user of the program services to cover as nearly as practicable the costs of services rendered. This proposal would amend the schedule for fees and charges for services rendered to the processed fruit and vegetable industry to reflect the costs currently associated with the program.

AMS regularly reviews these programs to determine if fees are adequate. Since the last fee change June 18, 1991, (56 FR 27898), program operating costs have increased. The major contributing factor was a salary increase for Federal employees of 4.2 percent pay effective January 1, 1992. A projected salary increase of 3.7-percent is scheduled for January 1993.

Employee salary and fringe benefits are major program costs that account for approximately 85 percent of the total operating budget. In addition the following increases occurred in program operating expenses: (1) A 15.7-percent increase in the cost of support services during FY–91; (2) a projected inflationary cost increase of 3.3 percent for fiscal year 1993. The Agency has determined that due to the aforementioned increases in program operating costs, these programs will incur over a $750,000 loss in fiscal year 1993.

Based on the Agency's analysis of increased costs since 1991, AMS proposes to increase the fees relating to such services. The following table compares current fees and charges with proposed fees and charges for processed fruit and vegetable inspection as found in 7 CFR 52.42–52.51. For inspection services charged under section 52.42, overtime and holiday work would continue to be charged as provided in that section. For inspection services charged on a contract basis under section 52.51 overtime work would also continue to be charged as provided in that section. Unless otherwise provided for by regulation or written agreement between the applicant and the Administrator, the charges in the schedule of fees as found in section 52.42 are:

Current—$34.50/hr.
Proposed—$37.00/hr.

Charges for micro, chemical and certain special analyses as found in section 52.47:

Current—$25.00/hr.
Proposed—$29.00/hr.

Charges for travel and other expenses as found in section 52.50:

Current—$34.50/hr.
Proposed—$37.00/hr.

[1] May include the following: Honey; molasses, except for stockfeed; nuts and nut products, except salt; sugar (cane, beet, and maple); syrups (blended), syrups, except from grain; tea, cocoa, coffee, spices, condiments.

Charges for year-round in-plant inspection services on a contract basis as found in section 52.51(c):

(1) For inspector assigned on a year-round basis:

Current—$29.00/hr.
Proposed—$32.00/hr.

(2) For inspector assigned on less than a year-round basis:

Each inspector:

Current—$34.50/hr.
Proposed—$37.00/hr.

In-plant sampler:

Current—$14.00/hr.
Proposed—$20.00/hr.

Charges for less than year-round in-plant inspection services (four or more consecutive 40 hour weeks) on a contract basis as found in section 52.51(d):

(1) Each inspector:

Current—$34.50/hr.
Proposed—$37.00/hr.

(2) In-plant sampler:

Current—$14.00/hr.
Proposed—$20.00/hr.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

Accordingly, for the reasons set forth in the preamble, this proposed rule amends 7 CFR part 52 as follows:

PART 52 PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

1. The authority citation for 7 CFR part 52 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 52.42 [Amended]

2. In § 52.42, the 1st sentence would be revised to read as follows:

§ 52.42 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the regulations in this part, shall be at the rate of $37.00 per hour plus one-half the hourly rate per hour for all scheduled overtime hours. * * *

§ 52.50 [Amended]

3. In § 52.50, the 1st sentence is revised to read as follows:

§ 52.50 Travel and other expenses.

Charges may be made to cover the cost of travel time incurred in connection with the performance of any inspection service, including appeal inspections, at the rate of $37.00 per hour. * * *

§ 52.51 [Amended]

4. In § 52.51, paragraph (c)(1), the rate is changed from "$29.00" per hour to "$32.00" per hour. In paragraph (c)(2), the rate is changed from "$34.50" per hour to "$37.00" per hour and the rate of "$14.00" per hour is changed to "$20.00" per hour.

5. In paragraph (d)(1), the rate is changed from "$34.50" per hour [1] to "$37.00" per hour [1] and in paragraph (d)(2), the rate is changed from "$14.00" per hour to "$20.00" per hour.

Dated: October 29, 1992.

Daniel Haley,

Administrator.

[FR Doc. 92-26700 Filed 11-3-92; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Parts 316, 317, 319, and 381

[Docket No. 92-005P]

RIN 0583-AB53

Prominently Disclosed Product Name Qualifiers

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to eliminate specific labeling requirements for the prominent disclosure of certain information that qualifies product names. The proposed rule would eliminate those prominent disclosure requirements for product name qualifiers where the inclusion of a substance does not significantly alter the basic identity of the finished product or where the prominently disclosed information can be found in the ingredients statement. While prominent disclosure of certain product name qualifiers on product labels would no longer be a requirement, manufacturers would have the option of continuing to use such labeling if they so choose. This rule is being proposed as part of the Agency's label reform initiatives.

DATES: Comments must be received on or before January 4, 1993.

ADDRESSES: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, room 3171, South Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments as provided by the Poultry Products Inspection Act should be directed to: Mr. Ashland L. Clemons, (202) 205-0042. (See also "Comments" under "**SUPPLEMENTARY INFORMATION.**")

FOR FURTHER INFORMATION CONTACT: Ashland L. Clemons, Director, Food Labeling Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 205-0042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this proposed rule is not a major rule under Executive Order 12291. It would not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. States and local jurisdictions are preempted under the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) from imposing any marking, labeling, packaging, or ingredient requirements on federally inspected meat and poultry products that are in addition to, or different than, those imposed under the FMIA and PPIA. States and local jurisdictions may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official establishments for the purpose of preventing the distribution of meat and poultry products that are misbranded or adulterated under the FMIA or PPIA, or, in the case of imported articles, which are not at such an establishment, after their entry into the United States. Under the FMIA and PPIA, States that maintain meat and poultry inspection programs must impose requirements on State inspected products and establishments that are at least equal to those required under the FMIA and PPIA. The States may, however, impose more stringent requirements on such State inspected products and establishments.

[1] Except a minimum of 8 hours per day will be billed in lieu of a minimum of 40 hours a week.

This proposed rule is not intended to have retroactive effect. Prior to any judicial challenge to the application of its provisions, applicable administrative procedures must be exhausted. Those administrative procedures are set forth in the rules of practice governing proceedings for labeling determinations at 9 CFR parts 335 and 381, Subpart W.

Effects on Small Entities

The Administrator, FSIS, has made an initial determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would ease regulatory requirements for certain segments of the meat and poultry industry and, thus, would provide a positive impact on the affected industry. Such manufacturers would no longer be required to prominently disclose certain product name qualifiers on their labels, although they may continue to use such labeling if they so choose. Thus, the current stock of these labels, which contains prominently disclosed product name qualifiers, is not affected by this rule. Manufacturers frequently revise such labels and, therefore, may simply delete the prominently disclosed product name qualifiers when they submit their revised labels for approval. Thus, any costs associated with new label applications would be covered under existing approved paperwork burdens of FSIS's prior label approval system.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Written comments should be sent to the Policy Office at the address shown above and should refer to Docket Number 92-005P. Any person desiring an opportunity for oral presentation of views as provided under the Poultry Products Inspection Act must make such request to Mr. Ashland Clemons so that arrangements may be made for such views to be presented. A record will be made for such views to be presented. A record will be made of all views orally presented. All comments submitted in response to this proposal will be available for public inspection in the Policy Office from 9:00 a.m. to 12:30 p.m. and from 1:30 p.m. to 4:00 p.m., Monday through Friday.

Background

Parts 316, 317, 319, and 381 of the Federal meat and poultry products inspection regulations (9 CFR Parts 316, 317, 319, and 381) require certain types of information about the product to be prominently disclosed with the product name. Over the years, technological advances, competition in the marketplace, and consumer interest in diet and health issues have resulted in a wide variety of new food products entering the marketplace. Historically, FSIS has taken the position that it would not unduly restrict the development and marketing of new products or manufacturing processes provided consumers have adequate information to make information choices about these new products. New products often contain ingredients used to improve a traditional product's sensory, shelf life, or nutritional characteristics, or to replace scarce or unavailable ingredients. While the ingredients used in these situations had to be safe and effective, they often differed from those ingredients used in a product's traditional counterpart. As a result, FSIS believed it was necessary to alert the consumer to the presence of unusual or unexpected ingredients by means of a prominent statement which accompanies the product name.

Correspondingly, innovations in food processing equipment and manufacturing practices have enabled food processors to develop and economically produce a wide variety of previously inconceivable or impractical food products. As regulations were developed to provide for these novel processing procedures, FSIS often included requirements for the prominent disclosure of such processes to accompany the product's name in an effort to help consumers identify such products.

In the past, requirements for the prominent disclosure of product name qualifiers were manageable since food products in the marketplace were fewer and less complex. However, as the variety and complexity of food products increased, and once novel products became commonplace, these labeling requirements became unwieldy and cumbersome. Moreover, the information conveyed with the product name was often repeated in the product's ingredients statement.

As a result of changes in the marketplace, FSIS has increasingly moved away from requirements for the prominent disclosure of product name qualifiers. Inevitably, inconsistencies in labeling policies have developed, further compounding the questionable need for such statements. For example, FSIS was petitioned in 1988 to eliminate prominent disclosure of certain binders and extenders that are foods or are derived from food ingredients in frankfurters and similar products. The petitioner contended, in part, that the Agency's application of its prominent labeling policy was inconsistent and often discriminatory.

After considering the petition, FSIS agreed that labeling policies did unfairly discriminate against manufacturers using binders and that the labeling policy requiring qualifiers for extenders used in frankfurters and similar products was also discriminatory. FSIS determined that the policies placed those using binders and extenders at a competitive disadvantage compared to those using similar ingredients which are not required to be prominently disclosed with the product name, and that such policies should be removed from the regulations. Additionally, FSIS believed that the required listing of ingredients in the product's ingredients statement provided consumers with informative labeling for making purchasing decisions.

This rulemaking, which was published on September 20, 1991 (56 FR 41445), did not cover the elimination of prominent disclosure of all binders nor binders in all products. Rather, the rule was limited to the prominent disclosure of binders on labels of frankfurters and similar products as requested by the petitioner. However, in the proposed rule on this subject, the Agency identified prominent labeling and product name qualifiers as issues to be further addressed during future proceedings planned for food standards and related labeling issues (56 FR 12126, March 22, 1991).

New Policy Direction

FSIS acknowledged the need to establish sound, consistent policy in determining the need for prominent labeling. To meet this end, FSIS reassessed its overall policy regarding prominent labeling and the various supporting rationales used throughout the years to establish prominent labeling requirements.

With various exceptions, FSIS believes that product qualifiers indicating the presence of substances should not be required (1) if the use of such substances does not significantly alter the basic identity of the finished product, and (2) if such substance is included in the ingredient statement. This rationale is based on the 1984 decision rendered by the United States Court of Appeals, District of Columbia Circuit, in the case of *Community Nutrition Institute, et al.* v. *John R. Block, Secretary of Agriculture, et al.* regarding prominent labeling of mechanically separated (species) (MS(S)) product. The Community Nutrition Institute brought suit against Secretary Block on the grounds that products containing MS(S) were

misbranded because the Secretary eliminated the requirement that such product labels bear a qualifying phrase indicating the presence of MS(S) in such products. The Court upheld the Secretary's justification for deleting the qualifying phrase on the grounds that his criterion for requiring such labeling is not whether the product contains a new or unexpected ingredient but whether that ingredient "significantly alters the basic identity of the finished product."

Conversely, FSIS believes that requirements for certain other product qualifiers should be retained in order to avoid any confusion by providing consumers with clear and complete information. Such prominent labeling includes the following:

1. Product name qualifiers depicting geographical origin, such as "Product of Denmark";

2. Product name qualifiers serving as ingredients statements, such as "Packed in Brine";

3. Statements prescribing safe handling and preparation of a product, such as "No Nitrites or Nitrates Added, Not Preserved—Keep Refrigerated";

4. Statements identifying the use of a species of animal that is not likely to be expected, such as "Lard—Beef Fat Added"; and

5. Phrases that are part of the product name, such as "Cured Turkey Thigh Meat" used in conjunction with "Turkey Ham."

Although the scope of this proposed rule would not affect these requirements, FSIS nonetheless welcomes comments on whether these product qualifiers should also be eliminated and any justification supporting such elimination.

Current Regulations

The Federal meat and poultry products inspection regulations currently contain various provisions requiring prominent disclosure of product name qualifiers. The Federal meat inspection regulations further require that certain meat food products be legibly and conspicuously marked with specific wording conveying the use of certain substances or processes in the preparation of the meat food product.

Sections 317.2(j)(3) and 381.119(a) of the Federal meat and poultry products inspection regulations (9 CFR 317.2(j)(3) and 381.119(a)) require that when a meat or poultry product contains smoke flavorings or artificial smoke flavorings, such use shall be prominently displayed on the product label. Furthermore, section 316.11(d) of the Federal meat inspection regulations (9 CFR 316.11(d)) requires that any meat product containing smoke flavorings or artificial smoke flavorings shall be marked with the words "Smoke Flavoring Added" or "Artificial Smoke Flavoring Added," as appropriate.

Sections 317.2(j)(5) and 381.119(d) of the regulations (9 CFR 317.2(j)(5) and 381.119(b)) require prominent disclosure on the product's label when artificial coloring is added to the product. In addition, section 316.11(c) of the Federal meat inspection regulations (9 CFR 316.11(c)) requires that such product be marked accordingly.

When antioxidants are added to products as permitted by the regulations, sections 317.2(j)(10) and 381.120 (9 CFR 317.2(j)(10) and 381.120) require the label to include, in prominent letters and contiguous to the product name, a statement identifying the approved specific antioxidant by its common or usual name. A special marking identifying the antioxidant is also required on meat food products (9 CFR 316.11(f)).

Sections 317.8(b) and 381.120 require prominent labeling when tenderizers and preservatives are used in the product (9 CFR 317.8(b) and 381.120). Section 317.8(b) (9 CFR 317.8(b)) also requires prominent disclosure to indicate (1) the species of the animal from which the product derived and (2) the use of emulsifiers and antifoaming agents.

The regulations require prominent labeling when certain types of meat or poultry are used in certain products. Section 319.303(d) (9 CFR 319.303(d)) requires the label of corned beef hash to specify the percentage of any beef cheek meat, beef heart meat, or beef head meat used in the preparation of such product.

Section 381.117(c) (9 CFR 381.117(c)) requires, in certain cases, poultry products containing light and dark chicken or turkey meat in quantities other than natural portions, as defined in that section, to have a qualifying statement in conjunction with the product name indicating the types of meat actually used.

Section 319.180(d) (9 CFR 319.180(d)) requires the labels of frankfurters, franks, furters, hotdogs, wieners, viennas, bologna, garlic bologna, or knockwurst to disclose, in a prominent manner, in conjunction with the standardized name, the supplemental phrase "with byproducts" or "with variety meats."

Generally, the information relayed by such prominent marking and labeling is also required to be included in the ingredients statement on the product's label. Sections 317.2(c)(2) and 381.118(a) of the Federal meat and poultry products regulations (9 CFR 317.2(c)(2) and 381.118(a)) require that if a product is fabricated from two or more ingredients, all such ingredients must be listed on the label by their common or usual names in the descending order of their predominance. Furthermore, sections 318.7(a)(1) and 381.147(f)(1) of the Federal meat and poultry products regulations (9 CFR 318.7(a)(1) and 381.147(f)(1)) provide that no substance may be used in the preparation of any product unless it is approved in section 318.7(c) or elsewhere in 318 or in Part 319 of the subchapter, or in section 381.147(f)(4) or elsewhere in part 381, or by the Administrator in specific cases.

The Proposal

The Agency is proposing to amend the Federal meat and poultry products inspection regulations by eliminating certain requirements for prominently disclosing product name qualifiers. By eliminating such requirements, consumers would not be deprived of informative labeling because the information indicating the presence of the substances that are the subject of the qualifiers would still be found in the ingredients statement. FSIS believes that today's consumers are relying more upon the ingredients statement as the source of information about the composition of food products. Such information enables those consumers who wish to avoid certain ingredients to do so.

This proposed rule would eliminate the following types of product name qualifiers and related product marking requirements:

(1) Product name qualifiers and marking requirements indicating the addition of artificial or natural coloring to product, such as "Colored with annatto";

(2) Product name qualifiers and marking requirements indicating the use of smoke flavoring or artificial smoke flavoring, such as "Smoke Flavoring Added";

(3) Product name qualifiers and marking requirements indicating the use of antioxidants, such as "BHA, BHT, and Propylgallate Added to Help Protect Flavor";

(4) Product name qualifiers used when products are browned in hot edible oil or by a flame, such as "Browned in Hot Cottonseed Oil";

(5) Product name qualifiers indicating the presence of emulsifiers, specifically monoglycerides, diglycerides, and/or polyglycerol esters of fatty acids when added to rendered animal fat or a combination of such fat and vegetable fat, such as "With Monoglycerides and Diglycerides Added";

(6) Product name qualifiers indicating the use of tenderizers, such as "Tenderized with Papain";

(7) Product name qualifiers indicating the addition of the antifoaming agent dimethylpolysiloxan to rendered fats, such as "Dimethylpolysiloxan Added";

(8) Product name qualifiers indicating the use of preservatives, such as "Calcium propionate added to retard spoilage of crust";

(9) Product name qualifiers indicating the use of agar-agar in canned jellied meat food products, such as "Agar-Agar Added";

(10) Product name qualifiers indicating the use of binding matrices, such as "Sodium Alginate, Calcium Carbonate, and Lactic Acid Added";

(11) Product name qualifiers indicating the presence of a solution used to maintain color, such as "Sprayed With a Solution of Water, Ascorbic Acid and Citric Acid to Maintain Color";

(12) Product name qualifiers indicating the presence of meat byproducts and variety meats in sausages, such as "With Byproducts";

(13) Product name qualifiers indicating the presence of beef cheek meat or beef head meat, such as "Beef Cheek Meat Constitutes 5 Percent of the Meat Ingredient"; and

(14) Product name qualifiers describing the dark or light character of poultry meat, such as "Mostly White Meat."

Section 316.11(b) of the Federal meat inspection regulations (9 CFR 316.11(b)) requires that sausages in casing or in link form containing certain binders shall be marked with the name of each added ingredient, such as "Cereal Added." As previously discussed, FSIS issued a final rule on September 20, 1991, to eliminate the prominent disclosure of binders on labels of frankfurters and similar sausages (56 FR 41445). However, the product marking provisions set forth in section 316.11(b) were inadvertently omitted from that rulemaking. Therefore, this proposed rule would also eliminate the marking requirements of binders added to such products.

Currently, when certain meat food products, such as loaves, are browned by dipping them in hot edible oil or by a flame, the labels of these products are required to contain a prominent disclosure statement such as "Browned in Hot Cottonseed Oil." The proposed rule, as indicated above, would eliminate such prominent labeling, thereby removing the information which identifies the cooking media. FSIS is not proposing in this rulemaking proceeding to include such cooking media information elsewhere on the label. The cooking media for other processes, such as frying and sauteing, as well as the method of processing, are not required to be disclosed on the labeling of most other meat or poultry products. However, because of the current interest in the effect of different types of fats in the diet, such as soybean oil versus butter, FSIS is interested in receiving comments on whether this issue should be addressed in future rulemaking proceedings conducted by the Agency.

List of Subjects

9 CFR parts 316 and 317

Food labeling, Meat inspection.

9 CFR part 319

Meat inspection, Standards of identity.

9 CFR part 381

Food labeling, Poultry products inspection.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR parts 316, 317, 319, and 381 of the Federal meat and poultry products inspection regulations to read as follows:

PART 316—MARKING PRODUCTS AND THEIR CONTAINERS

1. The authority citation for part 316 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. Section 316.11 would be revised to read as follows:

§ 316.11 Special markings for certain meat food products.

Meat food products prepared in casing or link form (whether or not thereafter subdivided), other than sausage, which possess the characteristics of or resemble sausage, shall bear on each link or piece the world "imitation" prominently displayed: *Provided,* That the following need not be so marked if they bear on each link or piece the name of the product in accordance with § 317.2 of this subchapter: Such products as coppa, capocollo, lachschinken, bacon, pork loins, pork shoulder butts, and similar cuts of meat which are prepared without added substance other than curing materials or condiments; meat rolls, bockwurst, and similar products which do not contain cereal or vegetables; headcheese, souse, sulze, scrapple, blood pudding, and liver pudding; and other products such as loaves, chili con carne, and meat and cheese products when prepared with sufficient cheese to give definite characteristics to the finished products: *And provided further,* That imitation sausage packed in properly labeled containers having a capacity of 3 pounds or less and of a kind usually sold at retail intact, need not bear the word "imitation" on each link or piece if no other marking or labeling is applied directly to the product.

PART 317—LABELING, MARKING DEVICES, AND CONTAINERS

3. The authority citation for Part 317 would continue to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

4. Section 317.2 would be amended by removing and reserving paragraph (j)(5), (6), (7), (9), (10), and (12) and by revising paragraph (j)(3) to read as follows:

§ 317.2 Labels: definition; required features.

* * * * *

(j) * * *

(3) When an approved artificial smoke flavoring or an approved smoke flavoring is added as an ingredient in the formula of a meat food product, as permitted in part 318 of this subchapter, the ingredient statement shall identify any artificial smoke flavoring or smoke flavoring so added as an ingredient in the formula of the meat food product.

* * * * *

5. Section 317.8 would be amended by removing and reserving paragraphs (b)(11), (23), (25), (26), (27), (28), (35), (36), and (37).

PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

6. The authority citation for Part 319 would continue to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

7. Section 319.180 would be amended by removing and reserving paragraphs (b) and (d) and revising paragraph (a) to read as follows:

§ 319.180 Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst, and similar products.

(a) Frankfurter, frank, furter, hotdog, wiener, vienna, bologna, garlic bologna, knockwurst and similar cooked sausages are comminuted, semisolid sausages consisting of not less than 15 percent of one or more kinds of raw skeletal muscle meat with raw meat byproducts or not less than 15 percent of one or more kinds of raw skeletal muscle meat with raw meat byproducts and raw or cooked poultry products, and seasoned and cured, using one or more of the curing ingredients in accordance

with 318.7(c) of this chapter. They may or may not be smoked. Partially defatted pork fatty tissue or partially defatted beef fatty tissue, or a combination of both, may be used in an amount not exceeding 15 percent of the meat and meat byproducts or meat, meat byproducts, and poultry products ingredients. The finished products shall not contain more than 30 percent fat. Water or ice, or both, may be used to facilitate chopping or mixing or to dissolve the curing and seasoning ingredients, but the sausage shall contain no more than 40 percent of a combination of fat and added water. These sausage products may contain only phosphates approved under Part 318 of this chapter. These sausage products may contain raw or cooked poultry meat, poultry or poultry byproducts as defined in paragraph (g) of this section, individually or in combination, not in excess of 15 percent of the total ingredients, excluding water, in the sausage, and may contain Mechanically Separated (Species) in accordance with § 319.6. Such poultry products shall not contain kidneys or sex glands. The amount of poultry skin present in the sausage must not exceed the natural proportion of skin present on the whole carcass of the kind of poultry used in the sausage, as specified in § 381.117(d) of this chapter. Poultry products used in the sausage shall be designated in the ingredients statement on the label of such sausage in accordance with the provisions of § 381.118 of this chapter. Meat byproducts used in the sausage shall be designated individually in the ingredients statement on the label for such sausage in accordance with § 317.2 of this chapter.

* * * * *

8. Section 319.303 would be amended by removing and reserving paragraph (d).

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

9. The authority citation for part 381 would continue to read as follows:

Authority: 7 U.S.C. 450, 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

§ 381.117 [Amended]

10. Section 381.117 would be amended by removing and reserving paragraph (c) and removing Table 1.

11. Section 381.118 would be amended by revising paragraph (a) to read as follows:

§ 381.118 Ingredients statement.

(a) The label shall show a statement of the ingredients in the poultry product if the product is fabricated from two or more ingredients. Such ingredients shall be listed by their common or usual names in the order of their descending proportions. Poultry products containing light or dark meat ingredients in quantities other than natural proportions, as indicated in Table 1 of this paragraph, may include in the ingredients statement the types of poultry meat used (e.g., mostly dark chicken meat), as shown in Table 1. Alternatively, such ingredients may be specifically identified in the ingredients statement in order of predominance (e.g., light chicken meat, chicken thigh, dark turkey). When a product contains less than 10 percent cooked deboned poultry meat or is processed in such a manner that the character of the light and dark meat is not distinguishable, the type of chicken meat does not have to be specifically identified in the product's ingredients statement.

TABLE 1

Label terminology	Percent light meat	Percent dark meat
Natural proportions.	50–65	50–35.
Light or white meat.	100	0.
Dark meat	0	100.
Light and dark meat.	51–65	49–35.
Dark and light meat.	35–49	65–51.
Mostly white meat.	66 or more	34 or less.
Mostly dark meat.	34 or less	66 or more.

* * * * *

§ 381.119 [Removed and Reserved]

12. Section 381.119 would be removed and reserved.

§ 381.120 [Removed and Reserved]

13. Section 381.120 would be removed and reserved.

§ 381.129 [Removed and Reserved]

14. Section 381.129 would be amended by removing paragraph (d).

Done at Washington, DC, on September 14, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 92–26714 Filed 11–3–92; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF STATE

Bureau of Economic and Business Affairs

[Public Notice 1718]

22 CFR Part 89

Foreign Prohibitions on Longshore Work by U.S. Nationals

AGENCY: Department of State.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: In accordance with the Immigration and Nationality Act of 1952, as amended, the Department of State is compiling information to update the list of countries that prohibit crewmembers aboard U.S. vessels from performing longshore work—by particular activity—by law, regulation, or in practice as set forth in State Department regulations on prohibitions on longshore work by U.S. nationals.

DATES: Interested parties are invited to submit comments in duplicate by December 4, 1992.

ADDRESSES: For mailing public comments: Office of Maritime and Land Transport (EB/TRA/MA), room 5828, Department of State, Washington DC 20520–5816.

FOR FURTHER INFORMATION CONTACT: Stephen M. Miller, Office of Maritime and Land Transport, Department of State, (202) 647–6961.

SUPPLEMENTARY INFORMATION: Section 258(d)(2) of the Immigration and Nationality Act of 1952, as amended by the Immigration Act of 1990, Public Law 101–649, 8 U.S.C. 1288 (hereinafter: the Act), directs the Secretary of State (hereinafter: the Secretary) to compile and annually maintain a list, of longshore work by particular activity, of countries where performance of such particular activity by crewmembers aboard United States vessels is prohibited by law, regulation or in practice in the country. The list will be used by the Attorney General in determining whether to permit an alien crewman to perform an activity constituting longshore work in the United States or the coastal waters thereof, as provided in, subject to the conditions of, the Act.

The Department issued a Notice of Proposed Rulemaking (56 FR 8167) on February 27, 1991, an Interim Rule containing a list of such countries (56 FR 24338) on May 31, 1991, and a Final Rule (56 FR 66970) on December 17, 1991, with correction at 57 FR 1384 on January 11, 1992. The Department established the

list on the basis of reports received from United States diplomatic posts abroad concerning relevant laws, regulations and practices of their host countries and comments received from interested parties as a result of the notice-and-comment process.

The Department intends to apply the definition of longshore work and the standards for reciprocity exception set forth in the Final Rule published on December 27, 1991.

To update the list, the Department proposes to use the same process as in compiling the 1991 list. The Department has asked U.S. diplomatic and consular posts abroad to determine through contacts with host government officials and other appropriate sources of information (a) whether any host country laws or regulations amended or enacted since their last investigations in 1991 restrict or have the effect of restricting any type of longshore activities by crews of U.S. vessels, (b) whether any changes to host country practices have restricted the crews of U.S. vessels from performing any type of longshore activity normally performed in the country in the past year, and (c) whether any host country laws, regulations or practices have decreased restrictions on longshore activities by crews of U.S. vessels. The Department, through this Notice, is seeking public comments from interested parties. The Department intends to publish an amended rule no later than 60 days thereafter.

Dated: October 30, 1992.

James Tarrant,

Acting Deputy Assistant Secretary for Transportation Affairs, Economic and Business Affairs, Department of State.

[FR Doc. 92-26742 Filed 11-3-92; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[CO-76-90]

RIN 1545-AP19

Regulations Under Section 108 of the Internal Revenue Code; Discharge of Indebtedness

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations under section [illegible] of the Internal Revenue Code [illegible] 108(e)(8) provides that the common law stock-for-debt exception to the realization of discharge of indebtedness income does not apply where stock issued for indebtedness is nominal or token or fails to satisfy a proportionality test. The proposed regulations provide rules for determining whether stock issued for indebtedness is nominal or token under section 108(e)(8)(A) and rules for applying the proportionality test of section 108(e)(8)(B).

DATES: Comments and requests to speak at a public hearing scheduled for January 12, 1993, and outlines of oral comments must be received by December 21, 1992.

ADDRESSES: Send comments and requests to speak (with outlines of oral comments to be presented) at a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, CC:CORP:T:R [CO-76-90], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Annette Ahlers of the Office of Assistant Chief Counsel (Corporate), Internal Revenue Service, 1111 Constitution Avenue, Washington, DC 20224, or telephone (202) 622-7750 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document adds proposed regulations § 1.108-1 under sections 108(e)(8) (A) and (B) of the Internal Revenue Code (Code). Sections 108(e)(8) (A) and (B) were added by section 2(a) of the Bankruptcy Tax Act of 1980 (Public Law No. 96-589, 94 Stat. 3389) and amended by section 11325 of the Revenue Reconciliation Act of 1990 (Public Law No. 101-508, 104 Stat. 1368). On December 7, 1990, the Service published a Notice of Proposed Rulemaking adding proposed regulations § 1.108-1 concerning section 108(e)(8)(A) (55 FR 50568) (the "1990 regulations"). The 1990 regulations set forth a list of facts and circumstances relevant in determining whether stock is nominal or token under section 108(e)(8)(A). The Stock to Debt Ratio (a comparison of the value of the stock transferred to the creditor to the amount of allocable indebtedness discharged) is identified as the most important factor. In addition, the preamble to the 1990 regulations proposes three standards under which stock would be treated as not being nominal or token. Numerous comments were received and a public hearing was held on March 8, 1991.

Commentators generally disagreed with the emphasis on the Stock to Debt Ratio in the 1990 regulations and in the proposed standards contained in the preamble. Commentators suggested that the rules would make it difficult for a deeply insolvent corporation to qualify for the stock-for-debt exception in light of the speculative value of its stock following a title 11 case or insolvency workout. Commentators also contended that the required ratios in the proposed standards contained in the preamble are impractical in a bankruptcy or insolvency setting.

After consideration of the comments received, the Service is withdrawing the 1990 regulations and proposing new regulations under sections 108(e)(8) (A) and (B). In addition, the Service is proposing certain ruling guidelines for the nominal or token determination under section 108(e)(8)(A) to replace the standards proposed in the preamble to the 1990 regulations.

The new rules are proposed to be effective with respect to any issuance of stock for indebtedness pursuant to (1) a plan confirmed by the court in a title 11 case after *[Insert 60 days after final regulations are filed with the Federal Register]*, or (2) if there is no title 11 case, an insolvency workout in which all issuances of stock for indebtedness occur after that date. No inference is intended concerning the interpretation of sections 108(e)(8) (A) and (B) of the Code prior to the effective date of the regulations.

Explanation of Provisions

(a) Overview of Section 108

Section 61(a)(12) of the Code provides that gross income includes income that a debtor realizes from the discharge of indebtedness for less than the amount owed. Section 108 provides certain rules with respect to discharge of indebtedness income occurring in a title 11 case or when the debtor is insolvent. In general, insolvent debtors exclude discharge of indebtedness income from gross income to the extent of their insolvency (defined in section 108(d)(3)) and title 11 debtors exclude all income arising from a discharge of indebtedness pursuant to a plan approved by the bankruptcy court (section 108(d)(2)). Under section 108(b), title 11 and insolvent debtors generally must reduce certain tax attributes in an amount equal to the excluded amount of discharge of indebtedness income.

The courts have formulated an exception (the "stock-for-debt exception") to discharge of indebtedness income if the debtor exchanges its stock for its indebtedness. E.g., *Commissioner* v. *Motor Mart Trust*, 156 F.2d 122 (1st Cir. 1946), *acq.*, 1947-1 C.B. 3. Section 108(e)(10) limits the

stock-for-debt exception to a debtor in a title 11 case or to an insolvent debtor outside of a title 11 case to the extent of the insolvency. Section 108(e)(10) also provides that the stock-for-debt exception does not apply to an exchange of disqualified stock for indebtedness. Disqualified stock, as defined in section 108(e)(10)(B)(ii), is stock with a stated redemption price if the stock has a fixed redemption date, the issuer of such stock has the right to redeem such stock at one or more times, or the holder of such stock has the right to require its redemption at one or more times.

Section 108(e)(8) provides that the stock-for-debt exception does not apply in certain "de minimus" cases. Section 108(e)(8)(A) provides that the stock-for-debt exception does not apply to the issuance of nominal or token shares. Section 108(e)(8)(B) provides that the stock-for-debt exception does not apply, with respect to an unsecured creditor, where the ratio of the value of the stock received by the unsecured creditor to the amount of its indebtedness cancelled or exchanged for stock in the workout is less than 50 percent of a similar ratio computed for all unsecured creditors participating in the workout.

If the stock-for-debt exception applies to prevent discharge of indebtedness income to the debtor, no corresponding reduction of the debtor's tax attributes is required under sections 108(b) and 1017. S. Rep. No. 1035, 96th Cong., 2d Sess. 11, 1980–2 C.B. 625. Under section 108(e)(10), if the stock-for-debt exception does not apply, the debtor is treated as satisfying the indebtedness with an amount of money equal to the fair market value of the stock issued in exchange therefor.

(b) Overview of Proposed Regulations

The legislative history of section 108(e)(8) indicates that debtor corporations should not qualify for the stock-for-debt exception if the stock issued does not represent a real equity interest in the reorganized corporation. S. Rep. 1035, 2d Sess. at 17, 1980–2 C.B. 628 (see § 601.601(d)(2)(ii)(b) of the Statement of Procedural Rules). The proposed regulations implement this objective by, in effect, integrating the two provisions of section 108(e)(8). The proposed regulations adopt an aggregate approach to section 108(e)(8)(A) to assure that stock issued for unsecured indebtedness is, in the aggregate, not nominal or token. Under the proposed regulations, the proportionality test of section 108(e)(8)(B) then assures that the amount of stock issued for a particular unsecured indebtedness is not de minimis, by comparing the ratio of the value of that stock to the allocable portion of that indebtedness to a similar ratio computer for all unsecured indebtedness of the corporation. This represents a change from the 1990 regulations, which generally make the nominal or token determination under section 108(e)(8)(A) on a creditor-by creditor basis and do not provide rules for applying the proportionality test under section 108(e)(8)(B).

The Service has adopted an aggregate approach to section 108(e)(8)(A) because it believes that certain potential abuses inherent in an aggregate approach can be dealt with under the section 108(e)(8)(B) regulations as proposed. Changes to the section 108(e)(8)(B) regulations may require changes in the section 108(e)(8)(A) regulations and vice versa. Thus, comments suggesting changes to the approach to one provision of section 108(e)(8) should address whether changes to the approach to the other provision also would be required to assure that the policy objective identified in the legislative history is implemented.

The proposed regulations require that common stock and preferred stock be tested separately under the two provisions of section 108(e)(8). Common stock is all stock other than preferred stock or disqualified stock. Preferred stock is any stock (other than disqualified stock) that has a limited or fixed redemption price or liquidation preference and does not upon issuance have a right to participate in corporate growth to a meaningful extent. Solely for this purpose, a right to participate in corporate growth is not established by the fact that the redemption price or liquidation preference exceeds the fair market value of the preferred stock. A participation right exists in the form of a right to convert otherwise non-participating stock into participating stock if the conversion right, in substance, represents a meaningful right to participate in corporate growth.

If preferred stock is issued for indebtedness, the stock-for-debt exception is limited by reference to the stock's redemption price and liquidation preference. See Rev. Rul. 90–87, 1990-2 C.B. 32. Without separate testing of preferred stock and common stock under section 108(e)(8), the debtor could avoid this limitation merely by issuing a de minimis amount of common stock, in addition to the preferred stock, for the indebtedness.

The nominal or token test of section 108(e)(8)(A)

The proposed regulations provide that, as a general rule, all relevant facts and circumstances must be considered in determining whether stock issued for indebtedness in nominal or token. If common and preferred stock are issued for indebtedness, the determination is made separately with respect to the common stock and the preferred stock.

The determination of whether common stock issued for unsecured indebtedness is nominal or token is made on an aggregate basis with respect to all common stock issued for unsecured indebtedness in the title 11 case or insolvency workout. Preferred stock issued for unsecured indebtedness is also tested on an aggregate basis. The proposed regulations, unlike the 1990 regulations, do not provide a list of relevant factors in making the nominal or token determination and do not provide that the Stock to Debt Ratio is the most important factor.

The proportionality test of section 108(e)(8)(B)

For purposes of section 108(e)(8)(B), the proposed regulations provide that individual and group ratios for the amount of debt cancelled or exchanged for stock are computed separately for common stock and for preferred stock.

The individual common stock and preferred stock ratios are computed on an indebtedness-by-indebtedness basis by comparing the value of the common stock or preferred stock issued for an unsecured indebtedness to the amount of unsecured indebtedness allocated to that common stock or preferred stock. The amount allocated to common stock is the amount of the indebtedness remaining after taking into account the amount of all other consideration received for that indebtedness. The amount allocated to preferred stock generally is equal to the lesser of the lowest redemption price (if any) or lowest liquidation preference (if any).

An indebtedness-by-indebtedness approach, rather than a creditor-by-creditor approach, is adopted to simplify the application of section 108(e)(8)(B) by not requiring a debtor corporation to identify all of its creditors to determine which creditors hold which indebtedness.

The group common stock and preferred stock ratios are calculated on an overall, corporation-wide basis by comparing the aggregate value of all common stock or preferred stock issued for unsecured indebtedness in the title 11 case or insolvency workout to the aggregate amount of unsecured indebtedness allocated to that common stock or preferred stock. The amount allocated to all [illegible] stock is the final Rule total unsecured indebtedness exchanged, with for stock or cancelled in the title 11 ary 1 or insolvency workout less the [illegible]

of consideration (other than common stock) transferred for that unsecured indebtedness. Thus, the proposed regulations clarify that the denominator of the group common stock ratio is calculated taking into account indebtedness that is merely cancelled or exchanged for non-stock consideration. The aggregate amount allocated to each preferred share under the individual preferred stock ratio.

The approach taken to the group ratios under the proposed regulations reflects the fact that the legislative history to section 108(e)(8)(B) envisions a comparison of the actual distribution of stock to a pro rata distribution. "[T]he general 'stock-for-debt' exception will not apply to the debt of an unsecured creditor in a 'workout' if that creditor receives an amount of stock (by value) which is less than one-half the amount of stock that such creditor would receive if all the corporation's unsecured creditors, to the extent their debts are either cancelled or satisfied with the debtor's stock in the workout, received a pro-rata amount of the stock issued." S. Rep. No. 1035, 2d. Sess. 17 (1980–2 C.B. 628–9). Section 108(e)(8)(B) thus functions as a bright-line test of whether stock issued for unsecured indebtedness is de minimis.

Undersecured indebtedness

Undersecured indebtedness is debt secured by property where the value of the security is less than the debt's adjusted issue price. Under the proposed regulations, for purposes of sections 108(e)(8) (A) and (B), undersecured indebtedness is considered as two separate debt instruments: a secured indebtedness with an adjusted issue price equal to the value of the property securing the indebtedness, and an unsecured indebtedness with an adjusted issue price equal to the remainder. Absent strong evidence to the contrary, the value of the property securing the indebtedness is presumed to be equal to the sum of the issue price of any new secured indebtedness and the value of any other consideration (other than stock or new unsecured indebtedness) received for the indebtedness.

(c) Proposed Ruling Guideline

The Service is also considering issuing a revenue procedure providing that the Service will rule that common stock issued for outstanding unsecured indebtedness in a title 11 case or insolvency workout is not nominal or token under section 108(e)(8)(A) if the following representation is made:

The stock to total stock ratio for all common stock issued for unsecured indebtedness in the title 11 case or insolvency workout is equal to at least 15 percent. The stock to total stock ratio is a comparison of the total value of common stock issued for unsecured indebtedness in the title 11 case or insolvency workout to the total value of all stock of the corporation outstanding after the title 11 case or insolvency workout (including preferred stock and disqualified stock). The terms "common stock," "preferred stock," and "unsecured indebtedness" are defined in section 1.108–1 of the income tax regulations. The term "disqualified stock" is defined in section 108(e)(10)(ii) of The Internal Revenue Code.

(d) Additional Issues

The Service requests comments on the following issues: (1) The treatment under section 108(e)(8)(B) of disputed or contingent claims that are not satisfied on the effective date of the reorganization in the title 11 case or insolvency workout, and (2) the treatment under section 108(e)(8)(B) of claims cancelled without creating discharge of indebtedness income under section 108(e)(2).

Special Analysis

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests to Appear at a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted timely (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing is scheduled for January 12, 1993. See Notice of hearing published elsewhere in this edition of the Federal Register.

Drafting Information

The principal author of these proposed regulations is Lori J. Brown, Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service. Personnel from other offices of the Service and the Treasury Department participated in developing the regulations, in matters of both substance and style.

List of Subjects in 26 CFR 1.101–1 through 1.133–1T

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Notice of Proposed Rulemaking dated December 7, 1990 (55 FR 50568) is withdrawn, and 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended by adding the following citation.

Authority: 26 U.S.C. 7805 * * * Section 1.108–1 also issued under 26 U.S.C. 108(e)(8) and 108(e)(10)(B). * * *

Par. 2. Section 1.108–1 is added to read as follows:

§ 1.108–1 Stock-for-debt exception not to apply in de minimis cases.

(a) *Overview.* Section 108(e)(8) provides that the common law stock-for-debt exception does not apply if stock issued for indebtedness is nominal or token or if a proportionality test is not met. Paragraph (b) of this section provides rules for the nominal or token determination under section 108(e)(8)(A). Paragraph (c) of this section provides rules for the proportionality test under section 108(e)(8)(B). Paragraph (d) of this section provides certain general rules and definitions. Paragraph (e) of this section provides an effective date.

(b) *Issuance of nominal or token stock.* Under section 108(e)(8)(A), the common law stock-for-debt exception does not apply to indebtedness discharged for stock that is nominal or token. All relevant facts and circumstances must be considered in making this determination. If common and preferred stock are issued for indebtedness, the determination is made separately with respect to the common stock and the preferred stock. The determination of whether common stock issued for unsecured indebtedness is nominal or token is made on an aggregate basis with respect to all common stock issued for unsecured indebtedness in the title 11 case or insolvency workout. Preferred stock issued for unsecured indebtedness is

also tested on an aggregate basis with respect to all preferred stock issued for unsecured indebtedness in the title 11 case or insolvency workout.

(c) *Issuance of a disproportionately small amount of stock for unsecured indebtedness*—(1) *Common stock issued for unsecured indebtedness*—(i) *In general.* The common law stock-for debt exception does not apply to an unsecured indebtedness discharged for common stock in a title 11 case or insolvency workout if the individual common stock ratio does not equal at least one-half of the group common stock ratio.

(ii) *Individual common stock ratio defined.* The individual common stock ratio is the value of the common stock issued for an unsecured indebtedness to the amount of the unsecured indebtedness allocated to that common stock. The amount of unsecured indebtedness allocated to the common stock is the adjusted issue price of the indebtedness for which the common stock is issued, reduced by the amount of other consideration, if any, transferred in exchange for the indebtedness, including—

(A) The amount of any money;

(B) The issue price (determined under section 1273 or 1274) of any new indebtedness;

(C) With respect to any preferred stock, the amount of indebtedness allocated to the preferred stock under paragraph (c)(2)(ii) of this section; and

(D) The value of any other property, including any disqualified stock.

(iii) *Group common stock ratio defined.* The group common stock ratio is the aggregate value of all common stock issued for unsecured indebtedness in the title 11 case or insolvency workout to the aggregate amount of unsecured indebtedness allocated to the common stock. The amount of unsecured indebtedness allocated to the common stock is the aggregate adjusted issue price of all unsecured indebtedness exchanged for stock or canceled in the title 11 case or insolvency workout, reduced by the amount of other consideration, if any, issued for that indebtedness, including:

(A) The amount of any money;

(B) The issue price (determined under sections 1273 or 1274 of any new indebtedness;

(C) With respect to any preferred stock, the amount of indebtedness allocated to the preferred stock under paragraph (c)(2)(iii) of this section; and

(D) The value of any other property, including any disqualified stock.

(iv) *Example.* The following example illustrates these provisions.

Example. (A) X Corporation has three outstanding debts, each is an unsecured indebtedness of X with a $100,000 adjusted issue price. In a title 11 case, the first indebtedness is exchanged for $50,000 cash and $20,000 of common stock, the second indebtedness is exchanged for $10,000 cash, and the third indebtedness is exchanged for $5,000 common stock. The individual common stock ratio for the first indebtedness is 40 percent, which is determined by comparing the value of the common stock issued for the indebtedness ($20,000) to the amount of unsecured indebtedness allocated to that stock ($100,000 adjusted issue price less $50,000 cash received). The individual common stock ratio for the second indebtedness is 0 percent because no stock is received in exchange for the indebtedness. The individual common stock ratio for the third indebtedness is 5 percent, which is determined by comparing the value of the common stock issued for the indebtedness ($5,000) to the amount of unsecured indebtedness allocated to that stock ($100,000).

(B) The group common stock ratio is 10.4 percent, which is determined by comparing the value of all of the common stock issued for unsecured indebtedness in the title 11 case ($25,000) to the amount of unsecured indebtedness allocated to the stock ($300,00 aggregate adjusted issue price of all indebtedness exchanged for stock or cancelled in the title 11 case less $60,000 cash received)). Accordingly, section 108(e)(8)(B) is satisfied only with respect to the common stock issued for the first indebtedness. The stock-for-debt exception does not apply to the second or third indebtedness.

(2) *Preferred stock issued for unsecured indebtedness*—(i) *In general.* The common law stock-for-debt exception does not apply to an unsecured indebtedness discharged for preferred stock in a title 11 case or insolvency workout if the individual preferred stock ratio does not equal at least one-half of the group preferred stock ratio.

(ii) *Individual preferred stock ratio defined.* The individual preferred stock ratio is the value of the preferred stock issued for an unsecured indebtedness to the amount of the unsecured indebtedness allocated to the preferred stock. The amount of the unsecured indebtedness allocated to the preferred stock is equal to the lesser of the lowest redemption price (if any) or lowest liquidation preference (if any) of the preferred stock (determined at issuance). However, the allocable indebtedness may not be less than the fair market value of the preferred stock or greater than the adjusted issue price of the unsecured indebtedness.

(iii) *Group preferred stock radio defined.* The group preferred stock ratio is the aggregate value of all preferred stock issued for unsecured indebtedness in the title 11 case or insolvency workout to the aggregate amount of unsecured indebtedness allocated to the preferred stock under paragraph (c)(2)(ii) of this section.

(d) *Definitions and special rules.* For purposes of this section—

(1) *Common stock.* Common stock is all stock other than disqualified stock and preferred stock.

(2) *Disqualified stock.* Disqualified stock is disqualified stock as defined in section 108(e)(10)(ii).

(3) *Liquidation preference.* A liquidation preference exists if the stock's right to share in liquidation proceeds is limited and preferred.

(4) *Preferred stock.* Preferred stock is any stock (other than disqualified stock) that has a limited or fixed redemption price or liquidation preference and does not upon issuance have a right to participate in corporate growth to a meaningful extent. Solely for purposes of this paragraph (d)(4), a right to participate in corporate growth is not established by the fact that the redemption price or liquidation preference exceeds the fair market value of the preferred stock.

(5) *Undersecured indebtedness—(i) General rule.* If an indebtedness is secured by property with a value less than its adjusted issue price, the indebtedness is considered to be two separate debts: a secured indebtedness with an adjusted issue price equal to the value of the property, and an unsecured indebtedness with an adjusted issue price equal to the remainder. Absent strong evidence to the contrary, the value of the property securing the indebtedness is presumed to be equal to the issue price of any new secured indebtedness received for the indebtedness plus the value of any other consideration (except stock or new unsecured indebtedness) received for the indebtedness. A valuation of that property by a court in a title 11 case is a factor in determining value, but is not controlling.

(ii) *Example.* The following example illustrates these provisions.

Example. Corporation X owes an indebtedness with an adjusted issue price of $100,000. The indebtedness is secured by certain property owned by Corporation X. Corporation X exchanges the indebtedness for $10,000 of stock and new secured indebtedness with an issue price of $70,000. Under paragraph (d)(5)(i) of this section, the indebtedness is bifurcated into a secured indebtedness of $70,000 (the issue price of the new secured indebtedness received in exchange therefor) and an unsecured indebtedness of $30,000 (the remainder of adjusted issue price of the indebtedness).

(e) *Effective date.* This section is effective with respect to any issuance of stock for indebtedness:

(1) Pursuant to a plan confirmed by the court in a title 11 case after [Insert date that is 60 days after final regulations are filed in the Federal Register]; or

(2) If there is no title 11 case, pursuant to an insolvency workout in which all issuances of stock for indebtedness occur after that date.

Shirley D. Peterson,

Commissioner of Internal Revenue.

[FR Doc. 92-26157 Filed 11-3-92; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[CO-76-90]

RIN 1545-AP19

Regulations Under Section 108 of the Internal Revenue Code; Discharge of Indebtedness; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations that provide rules for determining whether stock issued for indebtedness is nominal or token under section 108(e)(8)(A) and rules for applying the proportionality test of section 108(e)(8)(B).

DATES: The public hearing will be held on Tuesday, January 12, 1993, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Tuesday, December 22, 1992.

ADDRESSES: The public hearing will be held in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [CO-76-90], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622-7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 108(e)(8) of the Internal Revenue Code of 1986. These regulations appear in the proposed rules section of this issue of the **Federal Register.**

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Tuesday, December 22, 1992, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Assistant Chief Counsel (Corporate).

[FR Doc. 92-26156 Filed 11-3-92; 8:45 am]

BILLING CODE 4830-01-M

Fiscal Service

31 CFR Part 235

RIN 1510-AA32

Issuance of Settlement Checks for Forged Checks Drawn on Designated Depositaries

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule amends existing regulations governing the issuance of settlement checks drawn on the United States Treasury and drawn on designated depositaries of the United States by accountable officers of the United States, that have been negotiated and paid on a forged or unauthorized endorsement. The changes are required due to the fact that the Check Forgery Insurance Fund has been closed pursuant to 31 U.S.C. 1555 which provides for closure of accounts where there have been no disbursements over a two year period.

DATES: Comments must be received by January 4, 1993.

ADDRESSES: Comments should be sent to Harvey B. Cable, Director, Adjudication Division, Financial Management Service, Room 828-F, Prince George Center II Building, 3700 East West Highway, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Ronald Brooks at (202) 874-8480.

SUPPLEMENTARY INFORMATION: The use of the Check Forgery Insurance Fund to finance the issuance of settlement checks has been discontinued by the Financial Management Service because of the enactment of title X of Public Law 100-86 which, in part, provides for recertification of payments. An administrative account, "Receivables on Forged Government Checks," has been established which supports the funding of settlement check obligations through the check reclamation process.

This rule is not a major rule for the purpose of Executive Order 12291 of February 17, 1981, and a regulatory impact analysis is not required. As explained above, this revision will have no impact on the issuance of settlement checks. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

List of Subjects in 31 CFR Part 235

Banks, Banking, Claims, Forgery.

For the reasons set forth in the preamble, Financial Management Service proposes to amend 31 CFR part 235 as follows:

PART 235—ISSUANCE OF SETTLEMENT CHECKS FOR FORGED CHECKS DRAWN ON DESIGNATED DEPOSITARIES

1. The authority citation for part 235, is revised to read as follows:

Authority: 31 U.S.C. 321; Pub. L. 100-86, title X, sec. 1005.

§ 235.4 [Removed]

2. Section 235.4 is removed.

3. Section 235.5 is redesignated as § 235.4 and revised to read as follows:

§ 235.4 Reclamation amounts.

Amounts received by way of reclamation on forged checks shall be deposited to the appropriate foreign currency fund or other account charged for the settlement payment.

§ 235.6 [Redesignated as § 235.5]

4. Section 235.6 is redesignated as § 235.5.

Russell D. Morris,
Commissioner.

[FR Doc. 92-26719 Filed 11-3-92; 8:45 am]
BILLING CODE 4810-35-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 113; FRL-4529-9]

Approval and Promulgation of Implementation Plans; Revision to the New York State Implementation Plan for Ozone

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval, partial approval and partial disapproval of a request by New York to revise its State implementation Plan (SIP) as it relates to the control of volatile organic compounds.

This action includes a finding that the State has met two of four commitments made in its 1982 ozone SIP for the New York City metropolitan area. These commitments include the adoption of regulations for automobile refinishing and reasonably available control technology for small sources.

This action also proposes action on two State stationary source regulations: Part 228—"Surface Coating Processes," and Part 234)—"Graphic Arts."

New York was required to make these corrections pursuant to a SIP call issued in 1988 and pursuant to section 182(a)(2)(A) of the Clean Air Act, as amended in 1990. EPA has evaluated these regulations and proposes approval of part 234, partial approval of part 228, and partial disapproval of part 228 under the Act.

DATES: Comments must be submitted on or before December 4, 1992.

ADDRESSES: All comments should be addressed to: Constantine Sidamon-Eristoff, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the state submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 26 Federal Plaza, room 1034, New York, New York 10278.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, 26 Federal Plaza, room 1034, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION: In its 1982 ozone and carbon monoxide State Implementation Plan (SIP) for the New York City metropolitan area (NYCMA), comprised of New York City, Nassau, Suffolk, Westchester and Rockland counties, New York State committed, among other things, to adopt regulations for the control of volatile organic compounds (VOCs) from automobile refinishing and small VOC emission sources. In addition, in a May 26, 1988 letter EPA informed Governor Cuomo that the NYCMA SIP was substantially inadequate to attain the national ambient air quality standards for ozone and carbon monoxide. A follow-up letter of June 14, 1988 to New York State Department of Environmental Conservation's (NYSDEC) Air Director contained the basis for this finding of SIP inadequacy and identified the specific regulatory deficiencies (referred to as "RACT Fix-up" deficiencies) and missing regulations. In order to meet its commitments and the requirements of the SIP call, three SIP revision requests were submitted to EPA by the NYSDEC on October 14, 1988, December 5, 1988, and May 2, 1989. These submittals are the subject of this Federal Register notice.

The first two submittals are revisions to two existing regulations contained in Title 6 of the New York Code of Rules and Regulations (NYCRR). These revisions correct certain deficiencies in the existing regulations that EPA identified in a SIP call letter issued on May 26, 1988. The third submittal, on May 2, 1989, requested that the expanded requirements contained in two of the regulations submitted on October 14, 1988 and December 5, 1988 be substituted for the small VOC source reasonably available control technology (RACT) provisions contained in Part 212—"Process and Exhaust and/or Ventilation Systems." NYSDEC previously submitted revisions to Part 212 to fulfill a commitment in its 1982 SIP called "New RACT Small Sources," but EPA found that they were not self-effectuating because the State had discretion to establish the emission limits and, therefore, the projected emission reductions could not be counted in the attainment demonstration. Also, the emission limits thus established were not SIP approved and, therefore, were subject to State revision without EPA approval. As a result of these problems, NYSDEC adopted specific emission limitations for small sources to fulfill its commitment.

The Clean Air Act Amendments of 1990 were enacted on November 15, 1990. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q (Amendments). In amended section 182(a)(2)(A), Congress statutorily adopted the requirement that ozone nonattainment areas fix their deficient RACT rules for ozone. Areas designated nonattainment before enactment of the Amendments and that retained that designation and were classified as marginal or above as of enactment are required to meet the RACT fix-up requirement. Under Section 182(a)(2)(A), those areas were required by May 15, 1991, to correct RACT as it was required under pre-amended section 172(b) and as that requirement was interpreted in pre-amendment guidance.[1] The SIP call letters interpreted that guidance and indicated the corrections necessary for specific nonattainment areas. The NYCMA nonattainment area is classified as severe.[2] Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline. Although the State's submittals pre-dated the Amendments, because the state must meet this requirement, EPA is reviewing these submittals to determine whether the RACT fix-up requirement is met.

State Regulatory Revisions

The October 14, 1988 and December 5, 1988 submittals involved the following regulations:

- Part 228—"Surface Coating Processes," effective September 15, 1988, and
- Part 234—"Graphic Arts," effective September 15, 1988.

Following is a summary of EPA's review and findings concerning these regulations. These regulations involve source categories for which EPA has published guidance in the form of CTG and categories for which a CTG has yet

[1] Among other things, the pre-amendment guidance consists of: the Post-87 policy, 52 FR 45044 (November 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (of which notice of availability was published in the Federal Register on May 25, 1988); and the existing Control Techniques Guidelines (CTGs).

[2] NYCMA retained its designation of nonattainment and was classified by operation of law pursuant to section 107(d) and 181(a) upon enactment of the Amendments. 56 FR 56694.

to be published (non-CTG). For the non-CTG source categories, it was necessary for New York to determine the appropriate degree of control representing RACT. EPA's review was based on an evaluation of New York's technical justification for its requirements and similar regulatory efforts in other states.

PART 228—SURFACE COATING PROCESSES

Part 228 contains the requirements for operations that apply coatings that release VOCs. The revisions involve changes made by NYSDEC to improve the regulation's effectiveness and enforceability by correcting certain deficiencies in the existing regulation that EPA identified and by regulating new source categories. What follows is a discussion of the major changes in part 228.

a. Solids as Applied Equations

In the past, NYSDEC required that VOC compliance calculations be performed on a solids as applied basis. Appropriate equations have now been formally made part of the regulation to avoid any confusion. Equations are included for calculating the maximum permitted pounds of VOC per gallon of coating minus water and excluded VOC and for calculating compliance if nonconforming coatings are used. The parameters used in the equations are for the actual coatings "as applied," such as, VOC content, coating density, weight or volume fraction of water and excluded VOCs. These equations are consistent with the method EPA uses to determine compliance.

EPA is proposing to approve the use of these equations.

b. Facility Wide Emission Reduction Plans

Part 228 was revised to eliminate "facility wide emission reduction plans" (bubble provisions) as a control option in the NYCMA. The NYSDEC based this decision on the severity of the ozone nonattainment problem in this part of the State and the need to obtain additional emission reductions for attainment. EPA's Emission Trading Policy (see 51 FR 43814, December 4, 1986) requires that emission reductions used in bubbles must be surplus, enforceable, permanent and quantifiable. Since the State needs substantial additional emission reductions, NYSDEC determined that it was not possible to say that reductions were surplus when additional reductions would most likely be needed in the near future. These bubble provisions are still available with NYSDEC approval as a control option in areas outside of the NYCMA, where the ozone problem is less severe.

In areas where bubbles are still allowed to be used, NYSDEC expanded the requirements that a source must meet in order to use them. These include more detailed recordkeeping requirements and clarification of the time period over which compliance must be determined. When these revisions were proposed and adopted by New York, all of the State with the exception of NYCMA was in attainment of the ozone standard. Since that time certain other areas have recorded violations and the State is required to revise its SIP for these areas in order to conform to EPA's Emission Trading Policy. These revisions are to be made by November 15, 1992.

The Emission Trading Policy does not permit the use of bubbles with averaging times of greater than 24 hours in areas covered by a SIP call until the SIP has been revised to demonstrate attainment and maintenance. In addition, the Emission Trading Policy further requires that the bubble provisions must be modified to meet the "Criteria for Approvable Generic Bubble Rules," which adds three major requirements. These requirements include the use of a "lowest-of-actual, SIP allowable or RACT allowable" emissions baseline, production of an additional 20 percent emission reduction credit, and a demonstration that the national ambient air quality standard will be attained and maintained. It should be noted that EPA did not notify the State of these new requirements for the upstate areas outside of the NYCMA until December 26, 1989 and that the State has committed to make the necessary corrections.

EPA finds that the NYSDEC's elimination of bubbles in the NYCMA is within the discretion of NYSDEC and, therefore, proposes to approve this revision to the SIP. The proposed revisions to the bubble provisions would be acceptable in attainment areas, but on January 6, 1992 (56 FR 56694, November 6, 1991) the redesignation of certain areas of upstate New York became effective and the discrepancies between what EPA permits for such areas and what the NYSDEC now provides must be corrected. Although EPA is proposing to continue its approval of these bubble provisions, facilities should be aware that, at a minimum, the State must revise these provisions for nonattainment areas so the SIP conforms in the near future to the EPA bubble policy cited earlier.

c. Equivalency Provisions

NYSDEC removed the equivalency provisions from part 228. These provisions permitted a source to apply for a variance from meeting the specific emission limitations of the regulation if the source could demonstrate through the use of alternate means, such as transfer efficiency improvements and operating practices, that the resulting emissions would not exceed the normal emission limits alone. The majority of sources making use of this variance provision used improvements in transfer efficiency

Because of the lack of a method for measuring transfer efficiency in a standardized, reproducible manner, the NYSDEC was not able to insure compliance with the emission limits using transfer efficiency improvements. Therefore, the NYSDEC repealed this provision until such methods are developed. EPA has found a similar problem when trying to determine transfer efficiency and is developing test methods for measuring transfer efficiency. EPA has also found that the improvements claimed by coating sources are often not adequate to be considered equivalent to compliance with the emission limitations alone.

EPA finds that the NYSDEC's elimination of the equivalency provisions is within the discretion of NYSDEC and, therefore, proposes to approve this change.

d. Seasonal Shutdown Provisions

The NYSDEC has modified the seasonal shutdown provisions of part 228 to make them consistent with EPA requirements. As such, EPA is proposing to approve them.

e. Recordkeeping Provisions

The recordkeeping provisions of part 228 were expanded to identify the parameters and information for which a source must maintain records. These data are needed to determine whether a source is in compliance with the applicable emission limitations. EPA finds that these provisions require sufficient data to be recorded and maintained so that compliance can be determined. EPA is proposing to approve these changes.

f. New Emission Limitations for CTG Source Categories

1. Metal Furniture Coating Lines

NYSDEC added a clear coat emission limitation for metal furniture coating lines in Section 228.8, Table 1. The CTG for metal furniture did not contain such a limitation and this new emission limitation is a relaxation from the original limit. The reason NYSDEC added it was to cover certain metal items which might be regulated under

either metal furniture or miscellaneous metal parts and products (MMP&P) requirements. NYSDEC, however, was unable to provide adequate technical justification for this new emission limitation. In addition, section 193 of the CAA prohibits a relaxation of any control requirement without equivalent reductions provided for elsewhere in the SIP. EPA is proposing to disapprove this new emission limit.

2. Architectural Aluminum

New York previously regulated architectural coating of aluminum under its miscellaneous metal parts and products coating emission limitations, which is consistent with EPA's determination of RACT for this process. The revised part 228, § 228.7, now contains a specific emission limitation for high performance architectural coatings of 6.0 pounds VOC per gallon minus water, which is a relaxation of the earlier requirement. High performance architectural coatings are defined as fluoropolymer resin-based coatings that meet the Architectural Aluminum Manufacturers Association specification 605.2–85 and are applied to aluminum extrusions or panels in a factory.

In developing the RACT emission limitations for this CTG, EPA determined that the method of compliance could be either reformulation of the coatings or the application of control equipment. EPA was aware that all coatings might not be able to be reformulated and, therefore, controls should be considered RACT. Where neither method of reducing VOC emissions is possible, guidance permits a state to grant a variance provided that adequate technical and/or economic justification is submitted to demonstrate the controls are not RACT.

NYSDEC has not provided adequate documentation of the technical and/or economic infeasibility of applying add-on controls. In addition, the revision provides no discussion concerning the feasibility or availability of using powder coatings.

Several suppliers of powder coatings and liquid coatings have reformulated their coatings to meet the RACT limits. Powder coatings have passed the five year exposure test and are available.[3] Therefore, reformulated coatings that meet the CTG limit are available and their use should be evaluated before a source is allowed to use nonconforming coatings.

NYSDEC has not adequately documented the need for this less stringent emission limitation for architectural aluminum coatings. EPA proposes to disapprove the new emission limitation and exemption contained in 228.7(a)(2)(v). Since these coatings are currently regulated in the SIP by the miscellaneous metal parts and products emission limitations, they will continue to be regulated by them.

3. Aerospace Coating Lines

NYSDEC previously regulated aerospace coatings under the miscellaneous metal parts and products category, but recognized that these limitations did not adequately reflect the unique specifications aerospace coatings must meet in use. To account for this, section 228.9, Table 2 was revised to regulate aerospace coating lines and included specific limits for aerospace primers of 2.9 pounds VOC per gallon minus water, and 5.1 pounds VOC per gallon minus water for topcoats and maskant (for chemical processing). The aerospace limits apply to parts as well as the complete unit, including aircraft, helicopters and missiles. In addition, § 228.7(a)(2)(vii) exempts specific low usage aerospace coatings from the Table 2 emission limits.

NYSDEC also eliminated facility wide emission reduction plans or bubble provisions and a number of exemptions which were used by the aerospace industry to demonstrate compliance with the previous version of part 228. These changes had the effect of tightening the emission limits on aerospace sources.

EPA has reviewed the technical documentation submitted in support of the revised regulation and is proposing to approve these new exemptions and emission limitations contained in 228.7(a)(2)(vii) and 228.9, respectively.

EPA is required by the Clean Air Act to develop a CTG for the aerospace industry by November 15, 1993. New York has committed to reviewing the aerospace CTG upon its issuance and revising the aerospace requirements as appropriate.

g. New Emission Limitations for Non-CTG Source Categories

1. Motor Vehicle Refinishing

Section 228.9, Table 2 contains limits for automobile refinishing operations, a non-CTG category. Table 2 specifies maximum allowable emissions of 6.2 pounds of VOC per gallon minus water for repair and touchup and 5.0 pounds of VOC per gallon minus water for overall (entire vehicle) refinishing. NYSDEC derived these limits from an evaluation of the source category, available control techniques, other applicable regulations, and comments from the affected industry. These limits are in the same range as other state regulations for this source category. EPA is proposing to accept New York's determination that these emission limits represent RACT and is proposing to approve them.

2. Wood Coating

Section 228.9, Table 2, contains limits for surface coating of wood furniture, such as kitchen cabinets, household and office furniture, a non-CTG source category. Table 2 specifies the maximum allowable emissions per volume of coating minus water for the following coatings:

Type of operation	Limit (lbs VOC/gal minus water)
Semi-transparent stains	6.8
Wash coats	6.1
Opaque stains	4.7
Sealers	5.6
Pigmented coatings	5.0
Clear topcoats	5.6

NYSDEC derived these limits from an evaluation of the source category, available control techniques, other applicable regulations, and comments from the affected industry. The South Coast Air Quality Management District (SCAQMD) in California recently has adopted regulations which phase in emission limits for these sources. Some of the limits in the second phase are more stringent than those contained in part 228, but these have not yet gone into effect. The NYSDEC should evaluate the provisions of 228.9 to determine the feasibility of tightening the emission limits when the SCAQMD obtains sufficient experience with the implementation of the tighter limitations.

EPA is proposing to accept New York's determination that these emission limits represent RACT and is proposing to approve them.

3. Leather Surface Coating

Section 228.9, Table 2 contains a limit for the application of any surface coating formulation to a leather substrate, a non-CTG source category. Table 2 specifies the maximum allowable emissions per volume of coating minus water of 5.8 pounds of

[3] Publication No. AAMA.2–85, "Voluntary Specifications for High Performance Organic Coatings on Architectural Extrusions and Panels", describes test procedures and requirements for high performance organic coatings applied to aluminum extrusions and panels for architectural products. High performance architectural aluminum coatings are required to meet the requirements in AAMA 605.2, which includes a five year weathering test.

VOC per gallon minus water. NYSDEC derived this limit from evaluation of the source category, available control techniques, other applicable regulations, and comments from the affected industry.

EPA is proposing to accept New York's determination that this emission limit represents RACT and is proposing to approve it.

4. Glass Coating

Section 228.9, Table 2 contains limits for glass bulb coating operations, a non-CTG source category. Section 228.9 contains an emission limitation of 3.0 pounds of VOC per gallon coating minus water for lamps, incandescent light bulbs and miscellaneous glass products and a limit of 4.1 pounds of VOC per gallon minus water for fluorescent light bulbs. NYSDEC derived these limits from an evaluation of the source category, available control techniques, other applicable regulations, and comments from the affected industry.

EPA is proposing to accept New York's determination that these emission limits represent RACT and is proposing to approve them.

5. Tablet Coating

Section 228.9, Table 2 contains a limit for tablet coating operations, a non-CTG category. Table 2 specifies the maximum allowable emissions per volume of coating minus water of 5.5 pounds of VOC per gallon minus water. NYSDEC derived this limit from an evaluation of the source category, available control techniques, other applicable regulations, and comments from the affected industry. This is the same limit used by other states who regulate this source category.

EPA is proposing to accept New York's determination that this emission limit represent RACT and is proposing to approve it.

6. Urethane Coating

Urethane coating was previously not regulated by a CTG. Urethane coating operations are very similar to vinyl coating operations and the same coating technology and control equipment would apply. NYSDEC revised § 228.9 to include an emission limitation of 3.8 pounds of VOC per gallon of coating minus water for urethane coating, the same limit as vinyl coating operations. NYSDEC derived this limit from an evaluation of the source category, available control techniques, other applicable regulations, and comments from the affected industry.

EPA is proposing to accept New York's determination that this emission limit represent RACT and is proposing to approve it.

7. Miscellaneous Plastic Parts Coating

Section 228.9, Table 2 contains limits for the application of any surface coating formulation to miscellaneous plastic parts, a non-CTG source category. Table 2 specifies a maximum allowable emissions per volume of coating of 3.8 pounds of VOC per gallon minus water for topcoats and 4.8 pounds of VOC per gallon minus water for clear coats. NYSDEC derived these limits from an evaluation of the source category, available control techniques, other applicable regulations, and comments from the affected industry.

EPA is proposing to accept New York's determination that these emission limits represent RACT and is proposing to approve them.

h. Alternative Requirements

Section 228.3(e) permits the Commissioner to accept a lesser degree of control upon submission of satisfactory technical and/or eecomic evidence that the source has applied RACT. Section 228.5(c) permits the Commissioners to accept alternative analytical methods for determining compliance with surface coating emission limits when approved test methods are not applicable. EPA is proposing to approve these provisions. NYSDEC has agreed that, for purposes of being federally enforceable, it will submit these variances to EPA for approval. EPA views these provisions as giving the Commissioner the authority to permit alternative requirements once they have been submitted and approved as SIP revisions. EPA will not recognize any variance or alternate requirement until it is submitted to EPA by the State for approval as a source specific SIP revision. Approval of a variance request will be based on a case-by-case review and will involve the effect of the proposed variance on air quality and on the ability of a facility to comply with the existing regulation.

i. Capture Efficiency Test Methods

As discussed later in the "SIP Deficiencies" section of today's notice, one of the deficiencies that was identified in EPA's 1988 SIP Call letters was the lack of test methods for measuring capture efficiency. NYSDEC did not include such test methods in its submittals and, therefore, this remains to be corrected. NYSDEC is presently preparing revisions to Part 228 that will address this deficiency. Since EPA is still resolving certain issues with respect to the capture efficiency test methods, EPA is not at this point identifying this deficiency as grounds for a regulation's disapproval or the imposition of sanctions. However, EPA notes that the capture efficiency test method is a required part of this rule; the Agency will take further action on any future state submittal or failure of the state to submit a capture efficiency test method.

j. Administrative Changes

NYSDEC has made other administrative changes to part 228 which help to improve its clarity and enforceability. EPA is proposing to approve these changes.

In summary, EPA is proposing partial approval and disapproval of part 228 as part of the New York SIP. EPA is proposing to disapprove:

—The exemption for high performance aluminum architectural coatings contained in 228.7(a)(2)(v), and

—the emission limit for clear coats under metal furniture coating lines contained in 228.8 table 1.

PART 234—GRAPHIC ARTS

The version of part 234 included in this action has been revised to make changes similar to those made to part 228. These include the elimination of "facility wide emission reduction plans" (bubble provisions) as a control option in the NYCMA, and expanding the requirements that a source must meet to use the bubble provisions. Other changes in part 234 involve adding solids as applied equations, restricting seasonal shutdown provisions, and expanding the regulation's recordkeeping provisions. These changes were made for the same reasons identified earlier. EPA is proposing to make the same findings as with part 228 and is, therefore, proposing to approve these provisions.

Like part 228, the proposed revisions to the bubble provisions would be acceptable in attainment areas, but on January 6, 1992 (56 FR 56694, November 6, 1991) the redesignation of certain areas of upstate New York became effective and the discrepancies between what EPA permits for such areas and what the NYSDEC now provides must be corrected. Although EPA is proposing to continue its approval of these bubble provisions, facilities should be aware that, at a minimum, the State will have to revise them for nonattainment areas in the near future so the SIP conforms to the EPA bubble requirements cited earlier.

NYSDEC also made additional changes to part 234 that include lowering the size applicability for requiring controls, adding additional

source categories, and minor administrative changes. These are discussed in the following sections.

a. Lower Size Applicability

Previously all packaging rotogravure, publication rotogravure and flexographic printing processes with annual potential emissions of 100 tons per year were required to comply with part 234. The NYSDEC has eliminated this size cutoff in the NYCMA and all processes, regardless of size, are now required to control their emissions. EPA is proposing to approve this applicability limit.

b. Offset Lithographic Processes

Sections 234.1(c) and 234.3(b) regulate offset lithographic processes, a non-CTG source category. Section 234.3(b) limits the VOC content of the fountain solution and requires the control of VOC emissions from the dryer exhaust by at least 90 percent.

EPA is proposing to accept New York's determination that these emission limits represent RACT and is proposing to approve them.

c. Administrative Changes

NYSDEC has made other administrative changes to Part 234 which help to improve its clarity and enforceability. EPA is proposing to approve these changes.

d. Alternative Requirements

Section 234.3(d) permits the Commissioner to accept a lesser degree of control upon submission of satisfactory technical and/or economic evidence that the source has applied RACT. As with part 228, EPA is proposing to approve this provision. NYSDEC has agreed that, for purposes of being federally enforceable, it will submit these variances to EPA for approval. EPA views this provision as giving the Commissioner the authority to permit alternative requirements once they have been submitted and approved as SIP revisions. EPA will not recognize any variance or alternate requirement until it is submitted to EPA by the State for approval as a source specific SIP revision. Approval of a variance request will be based on a case-by-case review and will involve the effect of the proposed variance on air quality and on the ability of a facility to comply with the existing regulation.

e. Capture Efficiency Test Methods

As with Part 228, NYSDEC did not include test methods for part 234 and, therefore, this remains to be corrected.

In summary, EPA is proposing approval of part 234 as part of the New York SIP.

RACT for Small Sources

The May 2, 1989 submittal requested EPA to accept the substitution of newly regulated source categories and other changes contained in parts 228 and 234 for the small VOC source RACT provisions contained in part 212. The 1984 New York SIP contained a commitment to adopt "New RACT—Small Sources" in the NYMCA through the use of part 212. However, EPA was not able to accept part 212 as fulfillment of the SIP commitment because these limits were not defined in a federally enforceable manner. As a replacement, NYSDEC revised parts 228 and 234 to regulate similar source categories to produce the needed emission reductions. NYSDEC still will retain the RACT provisions in part 212 for use in regulating sources not covered by the provisions in parts 228 and 234, but it has withdrawn its request to make these provisions part of the SIP.

Specifically, the 1984 SIP contained a commitment to adopt a revised part 212 which would regulate sources with emissions between 3.5 pound per hour and 10 pounds per hour of VOC from industrial processing sources and for graphic arts sources with less than 100 tons per year. These changes were estimated to result in reductions of 3,311 tons per year from industrial processes and 1,358 tons per year from graphic arts sources. These emission reductions were relied upon to demonstrate that the NYCMA could attain the ozone standard.

The NYSDEC is obtaining the emission reductions by including the following changes in part 228: New emission limits for the coating of wood, tablets, glass, leather, plastic parts, urethane and aerospace components; the removal of facility-wide emission reduction plans in the NYCMA; the removal of equivalency organic solvent content variance provisions; the removal of exemptions for specialty coatings and minimum daily coatings thresholds; and the prohibition on the sale and/or specification of noncomplying coatings. The changes in part 234 are: A new emission limit for lithographic printing processes in the NYCMA; expanding the applicability to all packaging, rotogravure, publication rotogravure, and flexographic printing processes regardless of size in the NYCMA; the removal of facility-wide emission reduction plans; and the prohibition on the sale and/or specification of noncomplying coatings. These changes are discussed in detail in the preceding sections of today's notice.

Using the current actual emissions contained in the NYSDEC Source Management System, the above changes were calculated to result in additional reductions of 219 tons per year from part 228 sources and 19,575 tons per year from the part 234 sources, for a total of 19,794 tons per year. These emission reductions were not previously accounted for in other commitments. The original SIP commitment for this measure was 4,669 tons per year. The substitute measure will result in emissions reductions greater than the original "New RACT—Small Sources" SIP commitment. EPA is proposing to accept the new requirements contained in parts 228 and 234 as fulfilling the original commitment.

SIP Deficiencies

Today's action also addresses some of the deficiencies identified in the May 26, 1988 SIP call letter and the January 30, 1991 letter to the NYSDEC Commissioner. Twelve deficiencies were identified. The changes to parts 228 and 234 contain corrections for seven of the deficiencies. The deficiencies corrected are those relating to recordkeeping, bubbles, seasonal shutdowns, equivalency calculations and the method of calculating applicability for graphic arts sources. These corrections strengthen the SIP and would remove these particular deficiencies as a cause for SIP inadequacy.

Parts 228 and 234 also contain provisions regulating two of the missing control measures: Auto Refinishing, and RACT for Small Sources. These were discussed earlier and EPA is proposing to approve Auto Refinishing and RACT for Small Sources. Approval of these regulations would remove them as a cause for SIP inadequacy.

Conclusion

Although New York's submittals preceded the date of enactment of the 1990 Amendments to the Clean Air Act, EPA has evaluated these revisions for consistency with its provisions, EPA regulations and EPA policy and has found that they address and correct many of the "RACT Fix-up" deficiencies previously identified by EPA in the 1988 SIP Call letters. These changes have resulted in clearer, more enforceable regulations that strengthen the SIP.

EPA is proposing approval of part 234.

EPA is proposing partial approval of part 228, because the regulation is composed of separable parts that meet all of the applicable requirements of the

Act. It still contains deficiencies which were required to be corrected pursuant to the section 182(a)(2)(A) requirement of part D of the Clean Air Act. These are as follows:

—The exemption for high performance aluminum architectural coatings contained in 228.7(a)(2)(v), and
—The emission limit for clear coats under metal furniture coating lines contained in 228.8 table 1.

Because of these deficiencies, part 228 is not fully approvable pursuant to section 182(a)(2)(A) of the Act, which requires states to correct their RACT regulations so that they are consistent with section 172 of the pre-amended Act as interpreted in EPA's pre-amendment guidance and, therefore, may lead to rule enforceability problems.

Because of the above deficiencies, EPA cannot grant full approval of part 228 under section 110(k)(3) and part D.

At the same time, EPA is also proposing a partial disapproval of part 228 because it contains deficiencies that have not been corrected as required by section 182(a)(2)(A) of the Act, and, as such, the regulation does not meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin at the time EPA publishes final notice of this disapproval. Moreover, the final disapproval triggers the federal implementation plan (FIP) requirement under section 110(c). It should be noted that NYSDEC currently is revising part 228 to correct the identified problems. EPA anticipates that New York will adopt this regulation in the very near future.

EPA is also proposing to find that the State has fulfilled its commitment in the SIP to adopt regulations for two control measures: automobile refinishing (contained in part 228) and RACT for small sources (contained in parts 228 and 234). EPA also is proposing to find that the State corrected six regulatory deficiencies that were identified in the SIP call.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), the Administrator certifies that SIP approvals under sections 107, 110, and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. SIP approvals do not create any new requirements but simply approve requirements that are already State law. SIP approvals, therefore, do not add any additional requirements for small entities. Moreover, due to the nature of the Federal-state relationship under the Clean Air Act, preparation of a flexibility analysis for a SIP approval would constitute Federal inquiry into the economic reasonableness of the state actions. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The Office of Management and Budget has agreed to continue the temporary waiver until such time as it rules on EPA's request.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7672q.

Dated: September 29, 1992.

Constantine Sidamon-Eristoff,

Regional Administrator.

[FR Doc. 92–26768 Filed 11–3–92; 8:45 am]

BILLING CODE 6560–50–M

Notices

Federal Register
Vol. 57, No. 214
Wednesday, November 4, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Public Information Collection Requirements Submitted to OMB for Review

AGENCY: Action.

ACTION: Information collection request submitted to the Office of Management and Budget (OMB) for review.

SUMMARY: This notice provides information about an information collection proposal by ACTION, the Federal domestic volunteer agency, covered under the Paperwork Reduction Act (44 U.S.C., chapter 35), currently under review by OMB.

DATES: OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements received by November 25, 1992. Copies of the proposed forms and supporting documents may be obtained by contacting ACTION.

ADDRESSES: Send comments to both Janet A. Smith, Clearance Officer, ACTION, 1100 Vermont Ave., NW., Washington, DC 20525, (202 606–5245 and Steve Semenuk, Desk Officer for ACTION, Office of Management and Budget, 3002 New Executive Office Bldg., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Office of ACTION Issuing Proposal: Office of Policy Research and Evaluation/Program Analysis and Evaluation Division.

Title of Forms: FGP Project Director Mail Questionnaire, FGP Advisory Council Member Mail Questionnaire, FGP Institutional Representative Mail Questionnaire, FGP Volunteer Telephone Interview Questionnaire, and FGP Project Site Visit Instruments.

Need and Use: ACTION's legislation requires it to evaluate its programs every three years. These forms are needed to conduct an evaluation of the Foster Grandparent Program. Information gathered in the evaluation will be used to examine the impact and effectiveness of the Foster Grandparent Program in the following five areas: Compliance with the Domestic Volunteer Service Act, grantee ability to obtain local community support, effects on client status and on services; and to examine ACTION's performance of oversight responsibilities and identify significant strengths and weaknesses of projects.

Type of Request: New Request.

Respondent's Obligation to Reply: Voluntary.

Frequency of Collection: One time only.

Estimated Number of Responses: 3,066.

Average Burden Hours Per Response: .4.

Estimated Annual Reporting or Disclosure Burden: 1,226 hours.

Regulatory Authority: 42 U.S.C. 5056(a).

Dated: October 26, 1992.

Mary Jane Maddox,

Acting Director, ACTION.

[FR Doc. 92–26709 Filed 11–3–92; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 92–161–1]

Availability of List of U.S. Veterinary Biological Product and Establishment Licenses and U.S. Veterinary Biological Product Permits, Issued, Suspended, Revoked, or Terminated

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to veterinary biological product and establishment licenses and veterinary biological product permits that were issued, suspended, revoked, or terminated by the Animal and Plant Health Inspection Service, during the month of August 1992. These actions have been taken in accordance with the regulations issued pursuant to the Virus-Serum-Toxin Act. The purpose of this notice is to inform interested persons of the availability of a list of these actions and advise interested persons that they may request to be placed on a mailing list to receive the list.

FOR FURTHER INFORMATION CONTACT: Ms. Maxine Kitto, Program Assistant, Veterinary Biologics, Biotechnology, Biologics, and Environmental Protection, APHIS, USDA, room 838, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8245. For copies of the list or to be placed on the mailing list, write to Ms. Kitto at the above address.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 102, "Licenses For Biological Products," require that every person who prepares certain biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 102 also require that each person who prepares biological products that are subject to the Virus-Serum-Toxin Act (21 U.S.C. 151 *et seq.*) shall hold a U.S. Veterinary Biologics Establishment License. The regulations set forth the procedures for applying for a license, the criteria for determining whether a license shall be issued, and the form of the license.

The regulations in 9 CFR part 104, "Permits for Biological Products," require that each person importing biological products shall hold an unexpired, unsuspended, and unrevoked U.S. Veterinary Biological Product Permit. The regulations set forth the procedures for applying for a permit, the criteria for determining whether a permit shall be issued, and the form of the permit.

The regulations in 9 CFR parts 102 and 105 also contain provisions concerning the suspension, revocation, and termination of U.S. Veterinary Biological Product Licenses, U.S. Veterinary Biologics Establishment Licenses, and U.S. Veterinary Biological Product Permits.

Each month the Veterinary Biologics sections of Biotechnology, Biologics and Environmental Protection prepares a list of licenses and permits that have been issued, suspended, revoked, or terminated. This notice announces the availability of the list for the month of August 1992. The monthly list is also mailed on a regular basis to interested

persons. To be placed on the mailing list you may call or write the person designated under **FOR FURTHER INFORMATION CONTACT.**

Done in Washington, DC, this 28th day of October 1992.

Lonnie J. King,

Acting Administrator, Animal and Plant Health Inspection Service

[FR Doc. 92-26770 Filed 11-3-92; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), DOC.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

Firm name	Address	Date petition accepted	Product
Overton Gear & Tool Corporation	530 Westgate Drive, Addison, IL 60101	09/16/92	Gears/speed changers of forged and cut steel.
W & H Stampings, Inc	45 Engineers Road, Hauppauge, NY 11788.	09/16/92	Ordinance parts, electric machine parts and misc metal stampings.
Circuit Services, Inc	27 W. 24th Street, Kenner, LA 70062	09/16/92	Printed circuit boards.
Trimen Industries, Inc	P.O. Box 309, New Oxford, PA 17350	09/23/92	Gray iron.
Magneco/Metrel, Inc	223 Interstate Road, Addison, IL 60101	09/23/92	Refractory ceramics containing a majority of alumina and/or silica.
Energy Transformation Systems, Inc	1394 Willow Road, Menlo Park, CA 94025-1598.	09/28/92	Computer networking and signal devices: Transformers and networking devices.
Tech Laboratories, Inc	500 10th Street, Palisades Park, NJ 07650	09/28/92	Control assemblies using two or more switches, relays and printed circuit boards.
Top Notch Knits, Incorporated	14919 Northeast 40th, Redmond, WA 98052.	09/28/92	Adult wool, angora wool or cotton sweaters, hats and headbands.
Technology General Corporation	12 Cork Hill Road, Franklin, NJ 07416	10/02/92	Deep drawn metal components used primarily for writing and in the cosmetic industry (metal shells).
Glenn Thomas, Inc	561 Acorn Street, Suite N, Deer Park, NY 11729.	10/05/92	Napkins, tablecloths and placemats.
Mold-Flair Corporation	76 Portland Street, Fryeburg, ME 04037	10/05/92	Aluminum molds for the shoe industry.
T. Sardelli & Sons, Inc	195 Dupont Drive, Providence, RI 02907	10/05/92	Earrings: 14K gold and fold filled, sterling silver earrings and pendants, charms and pins.
Tomco, Inc	1435 Woodson Road, St. Louis, MO 63132	10/05/92	Carburetor repair kits, gasket stamping, burnishing, stake, dye-casting, gaskets, brass, flurocarbon.
Archive Paper Company	2330 W. Midway Blvd., Broomfield, CO 80038.	10/07/92	Matboard for picture framing with suede finish.
Classic Medical Products, Inc	S82 W 19246 Apollo Drive, Muskego, WI 53150.	10/07/92	Disposable medical electrodes used in testing, stimulating or monitoring patients.
Seminole Foundry, Inc	4145 Bankhead Highway, Lithia Springs, GA 30067.	10/07/92	Electrical power connectors for electrical substations and substation parts
Cliftex Corporation	194 Riverside Avenue, New Bedford, MA 02746.	10/13/92	Men's suits, sportcoats, and trousers.
Lars Industries, Inc	2220 W. Petersmith, Fort Worth, TX 76102	10/13/92	Printed circuit boards.
Champion Technologies, Inc	2553 N. Edgington Street, Franklin Park, IL 60131.	10/13/92	Data clock oscillators and radio frequency oscillators.
Abbec Tool & Die, Inc	100 Fernwood Avenue, Rochester, NY 14621.	10/15/92	Sheet metal enclosures for electronics.
Anchor Fabricators, Inc	Talmadge Road, Clayton, OH 45315	10/15/92	Lighting reflectors, fan panels, and components for concession equipment.
Lapp Insulator Company	130 Gilbert Street, Leroy, NY 14482	10/15/92	Porcelain insulators.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: October 27, 1992.

Kathleen W. Lawrence,

Deputy Assistant Secretary for Program Operations.

[FR Doc. 92-26718 Filed 11-3-92; 8:45 am]

BILLING CODE 3510-24-M

Foreign-Trade Zones Board

[Docket 33-92]

Foreign-Trade Zone 34; Niagara County, NY; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Niagara, New York, grantee of FTZ 34, requesting authority to expand its zone in Niagara County, New York. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part

400). It was formally filed on October 28, 1992.

FTZ 34 was approved on November 29, 1977 (Board Order 125, 42 FR 61489; 12/5/77), and relocated on January 27, 1983 (Board Order 203, 48 FR 5771; 2/8/83). The zone currently consists of 19 acres at the Niagara Falls International Airport, in Niagara County (Town of Wheatfield), New York. The site includes facilities owned by the Niagara Frontier Transportation Authority and an 80,000 square foot warehouse (2 acres) within a facility owned by Bell Aerospace, a division of Textron, Inc.

The applicant is now requesting authority to expand the general-purpose zone to include the entire Bell Aerospace facility (164 acres), located at 2221 Niagara Falls Boulevard, Niagara County (Town of Wheatfield), adjacent to the current zone site. The Bell Aerospace facility is a former aircraft manufacturing plant that is being redeveloped for general industrial use in a joint effort with the county.

In accordance with the Board's regulations (as revised, 56 FR 50790–50808, 10–8–91), a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 4, 1993. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to January 19, 1993).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, District Office, 111 W. Huron Street, Federal Building, room 1312, Buffalo, New York 14202.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 29, 1992.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 92–26778 Filed 11–3–92; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C–508–064]

Fresh Cut Roses From Israel; Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to revoke countervailing duty order.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the countervailing duty order on fresh cut roses from Israel.

EFFECTIVE DATE: November 4, 1992.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup, Philip Pia, or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0983 or 482–3691.

SUPPLEMENTARY INFORMATION:

Background

On August 25, 1992, the Department of Commerce ("the Department") published in the **Federal Register** (57 FR 38484) its intent to revoke the countervailing duty order on fresh cut roses from Israel (45 FR 58516; September 4, 1980). Under 19 CFR 355.25(d)(4)(iii), the Secretary of Commerce will conclude that an order is no longer of interest to interested parties and will revoke the order if no interested party objects to revocation or requests an administrative review by the last day of the fifth anniversary month. We had not received a request for an administrative review of the order for more than four consecutive anniversary months.

On September 28, 1992, the Floral Trade Council and Roses, Inc., petitioners and interested parties in this proceeding, objected to our intent to revoke the order. Because the requirements of 19 CFR 355.25(d)(4)(iii) have not been met, we will not revoke the order.

This notice is in accordance with 19 CFR 355.25(d).

Dated: October 28, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92–26777 Filed 11–3–92; 8:45 am]

BILLING CODE 3510-DS-M

[C–333–401]

Cotton Shop Towels From Peru; Determination Not To Terminate Suspended Investigation

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of determination not to terminate suspended investigation.

SUMMARY: The Department of Commerce is notifying the public of its determination not to terminate the suspended countervailing duty investigation on cotton shop towels from Peru.

EFFECTIVE DATE: November 4, 1992.

FOR FURTHER INFORMATION CONTACT: Megan Pilaroscia or Jean Kemp, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–3793.

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 39391) its notice of intent to terminate the suspended countervailing duty investigation on cotton shop towels from Peru (September 12, 1984, 49 FR 35835).

The Department may terminate a suspended investigation if the Secretary concludes that the agreement is no longer of interest to interested parties. The Department has not received a request to conduct an administrative review of the agreement suspending the countervailing duty investigation on cotton shop towels from Peru for seven consecutive annual anniversary months. September 1992 is the eighth anniversary of the suspension agreement.

On September 18, 1992, the petitioner, Milliken & Company, objected to the Department's intent to terminate this suspended investigation. Therefore, we no longer intend to terminate the suspended investigation.

This notice is in accordance with the Commerce Department's regulations (19 CFR 355.25(d)(4)(1992).

Dated: October 28, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92–26776 Filed 11–3–92; 8:45 am]

BILLING CODE 3510-DS-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-338]

Trade and Investment Patterns in the Crude Petroleum and Natural Gas Sectors of the Energy-Producing States of the Former Soviet Union

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt of a request on September 23, 1992, from the Senate Committee on Finance, the Commission instituted investigation No. 332-338, Trade and Investment Patterns in the Crude Petroleum and Natural Gas Sectors of the Energy-Producing States of the Former Soviet Union, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)). The Committee requested that the Commission provide its report not later than June 23, 1993.

EFFECTIVE DATE: October 26, 1992.

FOR FURTHER INFORMATION CONTACT: General inquiries regarding the investigation may be directed to Mr. Edmund Cappuccilli (202-205-3368) or Ms. Cynthia B. Foreso (202-205-3348), Energy and Chemicals Division, Office of Industries, U.S. International Trade Commission, Washington, DC 20436. For information on legal aspects of the investigation, contact Mr. William Gearhart of the Commission's Office of the General Counsel (202-205-3091). The media should contact Mr. Edward Carroll, Acting Director, Office of Public Affairs (202-205-1819). Hearing-impaired persons can obtain information on this study by contacting the Commission's TDD terminal on 202-205-1810.

BACKGROUND: As requested, the Commission in its report will seek to provide a baseline analysis of existing trade and investment patterns in the crude petroleum and natural gas sectors of the energy-producing States of the newly independent States of the former Soviet Union (NIS), as well as an examination of the current and potential impediments affecting the production, distribution, transportation, and storage of these commodities. In its report, the Commission will also seek to evaluate the energy-producing States of the NIS in terms of reserves and production of crude petroleum and natural gas, as well as analyze the past, current, and likely future trade patterns of these States in these products.

More specifically, as requested by the Committee, the Commission, in conducting its study, will review the following issues:

(1) Crude petroleum and natural gas reserves and production in the NIS over a 5-10 year period;

(2) Crude petroleum and natural gas trade over a 5-10 year period, including principal markets for both the United States and the NIS;

(3) Impediments, if any, to increased crude petroleum and natural gas exploration and production in the NIS, such as U.S. export restrictions concerning technology and foreign investment restrictions in the NIS;

(4) The investment situation in the NIS such as the role of joint ventures and equity-sharing, as well as petroleum pricing policies that could affect the industry; and

(5) To the extent feasible, the future markets for increased NIS crude petroleum and natural gas production.

PUBLIC HEARING: A public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street, SW., Washington, DC 20436, beginning at 9:30 a.m. on January 28, 1993. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street, SW, Washington, DC 20436, no later than noon, January 15, 1993. Any prehearing briefs (original and 14 copies) should be filed with the Secretary not later than noon, January 21, 1993. Any post hearing briefs should be filed by February 4, 1993.

WRITTEN SUBMISSIONS: In addition to or in lieu of filing prehearing or posthearing briefs, interested parties are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than February 4, 1993. All submissions should be addressed to the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

Issued: October 28, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-26764 Filed 11-3-92; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-563 (Final)]

Certain Stainless Steel Butt-Weld Pipe Fittings From Korea

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-563 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Korea of certain stainless steel butt-weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter, provided for in subheading 7307.23.00 of the HTS.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: October 19, 1992.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202-205-3198), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of certain stainless steel butt-weld pipe fittings

from Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on May 20, 1992, by Flowline Division, Markovitz Enterprises, Inc., New Castle, PA.

Participation in the Investigation and Public Service List

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not late than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in this investigation will be placed in the nonpublic record on December 31, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on January 14, 1993, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 5, 1993. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 8, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is January 8, 1993. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is January 22, 1993; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before January 22, 1993. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: October 29, 1992.

By order of the Commission.

Paul R. Bardos

Acting Secretary.

[FR Doc. 92-26763 Filed 11-3-92; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the National Institute of Standards and Technology Visiting Committee on Advanced Technology will meet on Tuesday, December 8, 1992, from 8:30 a.m. to 5 p.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. Presentations will be given on the Advanced Technology Program, International Standards—history, current status and issues, Building and Research Laboratory Strategic Plan, and laboratory tours. The discussion on NIST Budget, scheduled to begin at 3:30 p.m. and end at 5 p.m. on December 8, 1992, will be closed.

DATES: The meeting will convene December 8, 1992, at 8:30 a.m. and will adjourn at 5 p.m.

ADDRESSES: The meeting will be held in Lecture Room A, Administration Building, National Institute of Standards and Technology, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Dale E. Hall, Visiting Committee Executive Director, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975-2158.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on September 1, 1992, that portions of the meeting of the Visiting Committee on Advanced Technology which involve examination and discussion of the

budget for the Institute may be closed in accordance with section 552(b)(9)(B) of title 5, United States Code, since the meeting is likely to disclose financial information that may be privileged or confidential.

Dated: October 30, 1992.

John W. Lyons,

Director.

[FR Doc. 92-26783 Filed 11-3-92; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Atlantic Tuna Fisheries; Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS) and request for written comments.

SUMMARY: NMFS announces its intent to prepare an EIS to assess the potential impacts on the human environment of the western Atlantic bluefin tuna fishery in 1994–95. NMFS is responsible for managing the Atlantic bluefin tuna fishery and implementing the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Based on recent stock assessments and potential ICCAT recommendations, NMFS will be considering additional measures for 1994 and beyond for managing the Atlantic bluefin tuna fishery, including: (1) A possible reduction in the quota of western Atlantic bluefin tuna; (2) determination of a target stock size for western Atlantic bluefin and a schedule for attaining that stock size; (3) determination of possible allocation schemes for target stock sizes; and (4) area and season closures where fishing may be restricted.

NMFS will prepare an EIS to assess the impact of bluefin harvests and proposed regulations on the natural and human environment. This notice of intent requests public input (written comments) on issues that NMFS should consider in preparing the EIS. Scoping meetings for the EIS will be scheduled at a later date. The EIS will evaluate the effects on stock size and harvest rates of proposed policies.

The purpose of this notice is to: (1) Inform the interested public of the intent to prepare this EIS; (2) provide information on recent stock assessments for western Atlantic bluefin tuna; (3) announce that NMFS is considering measures for the 1994–95 Atlantic bluefin tuna fishery; and (4) request public comments.

DATES: Public comments must be received on or before January 15, 1993. Public meetings will be announced at a later date.

ADDRESSES: Comments on the proposal to prepare an EIS must be sent to: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management (F/CM), National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Richard B. Stone, telephone (301) 713–2347.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic bluefin tuna fishery is managed under the implementing regulations at 50 CFR part 285 under the authority of the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.* The ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary to carry out the recommendations of ICCAT. The authority to implement ICCAT recommendations is delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA.

The Fishery Conservation Amendments of 1990 (FCA), Pub. L. 101–627, also authorize management of tunas under the Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.).*

The Secretary proposes to issue regulations governing the fishery under the authority of the ATCA until such time as a fishery management plan is developed and complementary regulations are issued under the Magnuson Act.

By 1973, ICCAT expressed concern about the substantial decrease in the abundance of bluefin tuna in North Atlantic. In response to this concern, in August 1975, a regulation prohibiting the catching and landing of bluefin tuna less than 6.4 kg went into effect for the entire Atlantic. However, an exemption to the regulation allowed a 15 percent (by number) incidental catch of bluefin smaller than 6.4 kg. This regulation was intended to allow a higher proportion of recruiting year classes to survive and eventually supplement the adult stock. Since implementation of that regulation, the proportion of small fish [<6.4 kg) in the western Atlantic bluefin catch ranged from 1.7 to 23.2 percent; from 1976 to 1981 the percentages ranged from 1.7 to 7.2 percent; in 1982 and 1983 the percentages increased to 23.2 and 18.2 percent, respectively; and between 1984 and 1989, the annual percentages were below 15 percent.

In spite of the minimum-size regulation, western Atlantic bluefin stock abundance continued to decline. Due to increased concern over the resource, ICCAT's Standing Committee on Research and Statistics (SCRS) recommended in 1981 that catches of adults and juveniles from the western Atlantic bluefin stock be reduced to as near zero as possible, in order to stem the decline of the stock. An additional ICCAT regulation limited catches in the western Atlantic to 1,160 mt in 1982, and to 2,660 mt each year from 1983 to the present; prohibited directed fishing on the spawning stock in the Gulf of Mexico; and limited catches of bluefin under 120 cm straight fork length (SFL) to no more than 15 percent of the total catch, by weight.

The most recent assessment of the western Atlantic bluefin tuna stock was carried out in Madrid, Spain, by ICCAT's SCRS in November 1991, utilizing catch and effort data through 1990. Southeast Fisheries Science Center (SEFSC) scientific staff took a lead role in this assessment. The U.S. scientific delegation attending the bluefin tuna assessment session also included representatives of the East Coast Tuna Association (including two consultants from the University of Cape Town, South Africa), the University of Rhode Island, and the U.S. ICCAT Advisory Committee.

The 1991 SCRS western Atlantic bluefin assessment results were generally consistent with recent SCRS assessments in estimated population trends. Those trends continued to show that all size classes were substantially below the 1970 levels. As in recent assessments, the estimated fishing mortality on small fish (ages 2–5) showed an initial decline after implementation of regulations in 1982, but the estimated fishing mortality rate on this age group has increased to levels similar to those estimated for the late 1970's. Although there is a relatively large degree of uncertainty in the terminal year (1990) estimate of the fishing mortality rates on these age groups, the results indicate that it is very likely that the current fishing mortality rate has increased to more than double that estimated for 1982.

The assessment indicates further that the year classes of the 1980's appear to have been considerably smaller than those of the 1970's. The average of the most recent 5-year (1987–1991) estimates of abundance of age-1 fish is about 18 percent of the average of the estimates from the first 5 years (1970–1974) of the time series.

For medium-sized fish (ages 6–7), although there appeared to be an initial drop in fishing mortality rate after implementation of catch limitations in 1982, there has been a increase since the mid-1980's to levels similar to or higher than the pre-1982 level. In fact, the results indicated that it is very likely

that the current (1990) fishing mortality rate on age 6–7 fish is more than double the level estimated in 1982.

For the large fish component (ages 8+), estimated fishing mortality rates have increased considerable since 1982 because the catches, which conform to a regulation based on weight, have been taken from a declining biomass. The results indicate a very high likelihood that the 1990 fishing mortality rate on age-8+ fish was more than 2.7 times the 1982 level.

At the 1991 SCRS stock assessment session, an age-structured non-equilibrium stock production model was fit to western Atlantic bluefin catch and effort data from 1960–1990. The trends in stock size estimated by this method were found to be within the 90-percent confidence interval estimates of trend from the virtual population analysis (VPA) over the time period for which estimates of relative stock biomass were available from both methods (1990–1991), and thus showed a very similar picture of stock trajectory to that of the VPA.

Yield-per-recruit analyses conducted at the time of the stock assessment indicated that substantial gains in long-term yields may likely be realized if fishing mortality rates on small fish could be reduced. In additional, the analyses indicated that the increase in yield-per-recruit that could be expected from the fishery by avoiding capture of small and medium bluefin would mean that a larger spawning stock could be maintained under a wide range of fishing mortality rates.

Stochastic projections under various hypothetical catch scenarios indicated that it is more likely than not that the abundance of large (age 8+) fish will continue to decline through at least 1994. Under a scenario of a 50 percent reduction in catch in 1992, the projections indicated good odds that the 1995 age-8+ stock size would equal or exceed the 1992 level, an indication of possibly halting the decline in large fish abundance by 1995 and potentially allowing for reversal of the declining trend. For the medium-sized fish component, the projections indicated oscillations in abundance as observed in the VPA results, with a projected low in 1992 under all catch scenarios simulated and higher projected abundance levels in 1993 and 1994, relative to 1992.

One problematic source of uncertainty in the current assessment relates to the total level of catch for the western Atlantic stock by all nations, both ICCAT members and non-members. Although the 1991 ICCAT meetings developed preliminary plans to attempt to document these unreported catches through market mechanisms, it is unclear if the approaches being considered will be sufficient to resolve the aforementioned uncertainty.

Current Management Measures for 1992–93

On the basis of the most recent SCRS assessment of western Atlantic bluefin, at the November 1991 meeting, ICCAT recommended additional measures intended to reduce the harvest. Contracting parties to the Commission agreed to reduce the allowable level of harvest of western Atlantic bluefin to no more than 4,788 mt for the period 1992–1993, with a maximum allowable harvest of 2,660 mt for 1993. Furthermore, the contracting parties agreed to allow no more than 8 percent by weight, of the total allowable catch for a country, to be fish weighing under 30 kg or of fork length less than 115 cm. NMFS has implemented management measures for 1992–93, and is currently considering further modifications for 1993 to enhance data collection and enforcement. The modifications under consideration include: (1) Dealer reports via faxing; (2) permits for the Angling category; (3) Certificates of Origin for the import and export industry; (4) delaying the opening of the fishing categories that currently would begin June 1; (5) mandatory data reporting by all categories; (6) allowable level of incidental catch per trip for the Incidental Catch category; (7) methods to reduce fishing mortality on the spawning stock in the Gulf of Mexico; (8) in-season adjustments to the Angling category bag limits; and (9) treatment of 1992 category quota "overages" and "underages" in 1993, and allocation of the reserve.

Management Measures Under Consideration for 1994–95

NMFS will consider additional measures for 1994 and beyond. Those measures will depend on recommendations made by ICCAT at the 1993 meeting, and could include further reductions in the quota for western Atlantic bluefin tuna, modifications in the domestic allocation scheme, determination of a target stock size and area and season closures.

NMFS has determined that an EIS is appropriate, due to the potentially significant impact of upcoming regulations on the human environment and because changes have occurred in the fishery since the last EIS was prepared in 1982. Participants in the fishery, including processors, may face more limited access to the bluefin tuna resource, while the natural stocks of the species are allowed to recover.

Timing of the Analysis and Tentative Decisionmaking Schedule

Written comments on the intent to prepare the EIS will be accepted until January 15, 1993. Comments will be considered in the preparation of a draft EIS (DEIS) to be available in the spring of 1993. The final EIS (FEIS) will be drafted in the fall of 1993, following the ICCAT meeting in November.

Dated: October 30, 1992.

William W. Fox, Jr.,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 92-26746 Filed 11-3-92; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment to the Export Licensing System for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

October 29, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs providing for the use of export licenses/commercial invoices printed on brown paper.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the People's Republic of China have agreed to further amend the existing export licensing system to provide for the use of export licenses/commercial invoices, issued by the Government of the People's Republic of China, for shipments of goods produced or manufactured in China and exported from China on or after January 1, 1993, which are printed on a brown guilloche patterned background paper. The brown form replaces the red licenses/invoices currently in use. The visa stamp is not being changed at this time. The Chinese Embassy in Washington will continue to issue the white pre-printed replacement visa now in use.

Textile products which are produced or manufactured in China and exported from China during the period January 1, 1993 through February 28, 1993 may be accompanied by visas printed on either red or brown background paper.

See 49 FR 7269, published on February 28, 1984; and 52 FR 28741, published on August 3, 1987.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on February 23, 1984, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive establishes an export licensing system for certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in the People's Republic of China.

Effective on January 1, 1993, you are directed to amend further the directive dated February 23, 1984 to provide for the use of export licenses/commercial invoices issued by the Government of the People's Republic of China which are printed on brown guilloche patterned background paper. The brown form will replace the red form currently being used. The Chinese Embassy in Washington will continue to issue the white pre-printed replacement visa now in use.

To facilitate implementation of this amendment to the export licensing system, I request that you permit entry of textile products, produced or manufactured in China and exported from China during the period January 1, 1993 through February 28, 1993, for which the Government of the People's Republic of China has issued either a red or brown export license/commercial invoice.

Goods exported on and after March 1, 1993 must be accompanied by an export visa issued by the Government of the People's Republic of China on the brown invoice form only.

Shipments entered according to this directive which are not accompanied by an appropriate export visa shall be denied entry and a new visa must be obtained.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-26715 Filed 11-3-92; 8:45 am]

BILLING CODE 3510-DR-F

Announcement of Import Restraint Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the Republic of Korea

October 29, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6707. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Bilateral Textile Agreement, effected by exchange of notes dated November 21 and December 4, 1986, as amended and extended, between the Governments of the United States and the Republic of Korea establishes import restraint limits for the period beginning on January 1, 1993 and extending through December 31, 1993.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-3889.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Information regarding the 1993 CORRELATION will be published in the **Federal Register** at a later date.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1991; pursuant to the Bilateral Textile Agreement, effected by exchange of notes dated November 21 and December 4, 1986, as amended and extended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1993, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in the Republic of Korea and exported during the twelve-month period beginning on January 1, 1993 and extending through December 31, 1993, in excess of the following levels of restraint:

Category	Twelve-month restraint limit
Group I 200-229, 300-326, 360-363, 369-O [1], 400-414, 464-469, 600-629, 665-669 and 670-O [2], as a group.	390,735,515 square meters equivalent.
Subgroup within Group I 219, 300/301, 313, 314, 317/326, 410 and 604, as a group.	121,610,168 square meters equivalent.
Sublevels within Group I	
200	398,449 kilograms.
201	1,548,321 kilograms.
218	8,076,680 square meters.
219	7,538,234 square meters.
300/301	2,709,307 kilograms.
313	44,152,516 square meters.
314	24,617,506 square meters.
315	16,730,854 square meters.
317/326	16,408,223 square meters.
363	969,202 numbers.
410	3,348,478 square meters.
604	326,419 kilograms.
607	969,202 kilograms.
611	3,230,672 square meters.
613/614	5,384,453 square meters.
617	4,465,156 square meters.
619/620	89,121,037 square meters.
624	8,076,680 square meters.
625/626/627/628/629	13,784,200 square meters.
669-P [3]	2,032,229 kilograms.

Category	Twelve-month restraint limit
Group II	
237, 239, 330–359, 431–459 and 630–659, as a group.	560,068,950 square meters equivalent.
Subgroup within Group II	
333/334/335, 336, 341, 350 and 448, as a group.	11,690,368 square meters equivalent.
Sublevels within Group II	
237	53,580 dozen.
239	894,888 kilograms.
333/334/335	242,301 dozen of which not more than 123,843 dozen shall be in Category 335.
336	51,205 dozen.
338/339	1,076,891 dozen.
340	559,983 dozen of which not more than 290,761 dozen shall be in Category 340–D [4].
341	167,309 dozen.
342/642	194,750 dozen.
345	104,618 dozen.
347/348	398,449 dozen.
350	14,892 dozen.
351/651	204,590 dozen.
352	159,207 dozen.
353/354/653/654	247,384 dozen.
359–H [5]	2,293,532 kilograms.
433	13,529 dozen.
434	6,939 dozen.
435	33,213 dozen.
436	14,059 dozen.
438	56,370 dozen.
440	192,865 dozen.
442	47,514 dozen.
443	322,056 numbers.
444	51,775 numbers.
445/446	50,754 dozen.
447	86,591 dozen.
448	33,426 dozen.
459–W [6]	90,420 kilograms.
631	268,819 dozen pairs.
632	1,424,042 dozen pairs.
633/634/635	1,334,709 dozen of which not more than 151,354 dozen shall be in Category 633 and not more than 564,046 dozen shall be in Category 635.
636	248,596 dozen.
638/639	5,196,489 dozen.
640–D [7]	3,045,225 dozen.
640–O [8]	2,537,688 dozen.
641	1,016,942 dozen of which not more than 38,413 dozen shall be in Category 641–Y [9].
643	753,400 numbers.
644	1,133,458 numbers.
645/646	3,488,271 dozen.
647/648	1,251,987 dozen.
650	21,793 dozen.
659–H [10]	1,227,311 kilograms.
659–S [11]	160,271 kilograms.
Group III	
831–844 and 847–859, as a group.	18,121,057 square meters equivalent.
Sublevel within Group III	
835	27,959 dozen.
Group IV	
845	2,315,056 dozen.
846	813,949 dozen.
Group VI	
369–L/670–L/870 [12].	63,181,465 square meters equivalent.

[1] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6000 (Category 369–L); and 5601.21.0090.

[2] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020 (Category 670–L).

[3] Category 669–P: only HTS numbers 6305.31.0010, 6305.31.0020 and 6305.39.0000.

[4] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.

[5] Category 359–H: only HTS numbers 6505.90.1540 and 6505.90.2060.

[6] Category 459–W: only HTS number 6505.90.4090.

[7] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030.

[8] Category 640–O: all HTS numbers except 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.2030 and 6205.90.4030 (Category 640–D).

[9] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.

[10] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[11] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[12] Category 870; Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015 and 4202.92.6000; Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9020.

Imports charged to these category limits for the period January 1, 1992 through December 31, 1992, shall be charged against those levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the Bilateral Textile Agreement, effected by exchange of notes dated November 21 and December 4, 1986, as amended and extended, between the Governments of the United States and the Republic of Korea.

The conversion factors for the following merged categories are listed below:

Category	Conversion factor (Square meters equivalent/category unit)
333/334/335	33.75
369–L/670–L/870	3.8
633/634/635	34.1
638/639	12.96

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–26716 Filed 11–3–92; 8:45 am]

BILLING CODE 3510–DR–F

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Products Produced or Manufactured in Thailand

October 29, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6717. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for special shift, swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 56 FR 58559, published on November 20, 1991.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 29, 1992.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 15, 1991, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Thailand and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on November 2, 1992, you are directed to amend further the November 15, 1991 directive to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Thailand:

Category	Adjusted twelve-month limit [1]
Level in Group I	
613/614/615	30,024,500 square meters of which not more than 17,325,700 square meters shall be in Categories 613/615 and not more than 17,368,857 square meters shall be in Category 614.
Sublevels in Group II	
347/348/847	601,683 dozen.
647/648	704,370 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92-26717 Filed 11-3-92; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF ENERGY

[Docket Nos. PP-15 and IT-5656]

Intent To Rescind Presidential Permit and Export Authorization

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of intent to rescind Presidential permit and export authorization.

SUMMARY: DOE intends to rescind the Presidential permit contained in Docket No. PP-15, and the electricity export authorization contained in Docket No. IT-5656. Both documents were issued jointly to CPL and CFE.

DATES: Effective Date: December 4, 1992. Comments must be received before the above date.

ADDRESSES: Comments may be mailed to Office of Coal & Electricity (FE-52), Office of Fuels Programs, Office of Fossil Energy, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202-586-9624 or Lise Courtney M. Howe (Program Attorney) 202-586-2900.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Fossil Energy (FE) of the Department of Energy (DOE) is tasked with implementing Executive Order 10485 as amended by Executive Order 10238, which requires the issuance of Presidential permits for the construction, connection, operation and maintenance of electrical transmission facilities at the U.S. international border. In addition, FE administers the section 202(e) authority under the Federal Power Act which requires authorization to export electric energy from the U.S.

The Comision Federal de Electricidad (CFE), the Mexican national electric utility, and Central Power and Light Company (CPL), a Texas corporation, jointly hold Presidential Permit PP-15 for a 69-kilovolt (kV) electric transmission line crossing the U.S./Mexico border at Brownsville, Texas. CFE and CPL also jointly hold the electricity export authorization issued by the Federal Power Commission in docket number IT-5656.

On December 23, 1991, CPL filed an application with FE for a new Presidential permit that would authorize the relocation of the 69-kV transmission line to a double circuit support structure to be shared with a new 138-kV transmission line. In accordance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321, *et seq.* the DOE assessed the potential environmental impacts associated with this project and determined that the proposed action would not constitute a major Federal action significantly affecting the human environment. The DOE issued a Finding of No Significant Impact on June 9, 1992. In addition, the DOE assessed the potential impacts on the electric system reliability associated with the addition of the 138-kV tie to Mexico and the relocation of the 69-kV tie. The DOE prepared a staff reliability analysis dated May 13, 1992, which supported the finding that the issuance of a new Presidential permit (PP-94) would not adversely impact the reliability of the U.S. electric supply system. The FE therefore issued Presidential Permit PP-94 on June 18, 1992.

On April 17, 1992, CPL applied to amend the electricity export authorization contained in Docket IT-5656 which would allow the export of electric energy to CFE over the facilities to be authorized by Presidential Permit PP-94. The DOE chose to issue a new electricity export authorization to CPL rather than to amend the previous order, but only after CFE notified the DOE of its desire that its interests in Presidential Permit PP-15 and export authorization IT-5656 be cancelled. CFE so notified the DOE on October 9, 1992. The CFE notification provided that it would cancel its interests in Presidential Permit PP-15 and the electricity export authorization contained in Docket IT-5656 if DOE would issue to CPL:

(1) a Presidential permit for a double circuit interconnection consisting of the relocated 69-kV transmission line authorized by Presidential Permit PP-15 and a new 138-kV line at the Brownsville, Texas/Matamoros, Mexico, interconnection; and

(2) upon issuance of a new electricity export authorization to CPL without energy restriction, but with 300-MW peak power limit.

After complying with the requests of CFE as discussed above, electricity export authorization EA-94 was issued to CPL on October 27, 1992.

The DOE, having accomplished those actions requested by CFE and CPL, herein notices its intent to rescind Presidential Permit PP-15 and the electricity export authorization contained in Docket IT-5656.

DOE finds that the rescission of Presidential Permit PP-15 and the electricity export authorization in Docket IT-5656 is consistent with the public interest for the above stated reasons and thereby gives notice of its intent to rescind such orders effective December 4, 1992, unless it receives any public comments objecting to the proposed rescission.

Issued in Washington, DC, on October 28, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-26780 Filed 11-3-92; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-00342, FRL-4172-5]

Ethyl Parathion; Opportunity to Provide Information about Risks and Benefits; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meetings.

SUMMARY: EPA will conduct three 1-day meetings to encourage the public to provide information about the risks and benefits of the pesticide ethyl parathion (hereafter referred to as parathion). The public is also invited to submit written comments. EPA intends to use the information received to help determine whether the remaining uses of parathion pose unreasonable risks to human health or the environment and whether additional regulatory action is warranted.

DATES: The first meeting will be held on Tuesday, December 1, 1992, from 1 p.m. until 10 p.m. The second meeting will be held on Thursday, December 3, 1992, from 1 p.m. until 10 p.m. The third meeting will be held on Thursday, December 10, 1992, from 8 a.m. until 5 p.m.

ADDRESSES: The first meeting will be held at the Nebraska Center for Continuing Education, 33rd and Holdredge Streets, Lincoln, NE. The second meeting will be held at the Texas A&M Research and Extension Service Convention Center, 6500 Amarillo Blvd. West, Amarillo, TX. The third meeting will be held at the Baltimore Convention Plaza, 1 West Pratt St., Baltimore, MD. Requests to register to speak at the meetings should be submitted by November 25 to Brian Steinwand, Special Review and Reregistration Division, Office of Pesticide Programs (H7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Those who do not register by November 25 may register in person at the meetings to make a presentation, time permitting.

Those who wish to submit written comments may submit them to EPA at the meetings, or submit them to Brian Steinwand at the address described above on or before December 31, 1992. All comments, as well as information gathered at the open meetings, will be available for public inspection from 8 a.m. to 4:30 p.m., Monday through Friday (except legal holidays), at the Public Response and Program Resources Branch, Field Operations Division, Rm. 1132, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment may be claimed to be confidential by marking any or all of that information as Confidential Business Information (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. EPA anticipates that most of the comments will not be classified as CBI, and prefers that all information submitted be publicly available. Any records or transcripts of the open meetings will be considered public information and cannot be declared CBI.

FOR FURTHER INFORMATION CONTACT: By mail: Brian Steinwand at the address listed under the ADDRESSES unit. In person: Crystal Station, 3rd Fl., 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8174 (telephone), (703) 308-8041 (fax).

SUPPLEMENTARY INFORMATION: This Supplementary Information is divided into four units. Unit I discusses the background and regulatory history of parathion. Unit II describes the Agency's current understanding of the risks and benefits of parathion. Unit III summarizes the additional information that the Agency is seeking in order to better evaluate these risks and benefits. Finally, Unit IV describes the planned structure of the open meetings.

I. Background and Regulatory History

Parathion is a restricted use, broad spectrum organophosphate insecticide first registered in the United States in 1948. In May 1986, the Agency informed the registrants of parathion of its concerns about the acute toxicity of parathion to workers and birds. On December 15, 1986, the Agency issued the Parathion Registration Standard, which restricted its use to certified applicators and added additional protective clothing requirements.

In September 1991, EPA and the registrants of products containing parathion reached an agreement canceling parathion use on most sites and prohibiting application methods that posed the highest risks to workers on the remaining nine field crops (alfalfa, barley, canola, corn, cotton, sorghum, soybeans, sunflowers and wheat). (Parathion use on canola will not be permitted until the registrant provides the Agency with acceptable results of residue tests.) The agreement provided that, among other things, parathion be mixed and loaded only with closed systems, that it only be applied aerially, that an individual not act as both mixer/loader and aerial applicator, that there be 100 foot buffer zones around treated areas, and that treated crops be harvested using only mechanical means.

II. EPA's Understanding of the Risks and Benefits of Parathion

A. Risks to Humans

EPA has classified parathion in the highest toxicity category (category I) based on extreme toxicity to people and animals. Parathion, an organophosphate, can impair proper functioning of the nervous system. Human poisoning symptoms range from headache, tremor, and nausea to, in severe cases, labored breathing, coma, and death. There is also evidence showing some long-term adverse neurological and psychological effects resulting from exposure to parathion and other organophosphates. Parathion's ability to rapidly pass through the skin is an important factor contributing to its risks.

EPA believes that prior to 1991, parathion accounted for one of the highest rates of pesticide poisonings per application. The Agency estimates that the health risks have been substantially reduced because of the 1991 parathion settlement agreement. Nevertheless, EPA believes that even if label restrictions are followed properly, use of parathion under certain conditions could result in illness or even death, with individuals exposed to spray drift probably facing the highest degree of risk. Available data suggest that parathion accounts for a larger percentage of drift-related poisonings than alternative pesticides.

B. Risks to Birds and Other Nontarget Species

Laboratory studies have found that parathion is also highly toxic to birds and other nontarget species, such as mammals, amphibians, fish, and aquatic invertebrates. A number of reported incidents of bird kills in or near fields treated with parathion indicate that it poses risks under normal use conditions. EPA has received reports of 51 incidents of bird kills associated with parathion between 1956 and 1990, of which 22 were reported to be associated with parathion use on the remaining field crops. Parathion residues were found in the bodies of dead birds in 14 of these 22 incidents, which ranged from 2 to 1,600 dead birds. More than half of the 22 incidents involved parathion applications to wheat. EPA believes that the number of reported incidents greatly underestimates avian mortality for a

number of reasons, including: (1) Incidents may not be reported because of apprehension about the consequences of notifying authorities, especially given that reporting is voluntary; (2) incidents may not be recognized as pesticide-related; (3) carcasses may be removed from fields by predators before they are discovered by people; and (4) some birds may leave treated areas before succumbing to poisoning.

EPA believes that the primary route of exposure to parathion for birds is dietary, through the ingestion of vegetation or insects contaminated with parathion. Nondietary exposure, such as inhalation, may also cause avian mortality. A variety of both resident and migratory bird species use these field crops for various activities, such as feeding and grazing, nesting, brood-rearing, and resting, and therefore there is a substantial probability that birds will be present in treated fields.

At this time, incident data do not clearly establish the risks of parathion to aquatic organisms under normal use conditions. Most of the field kill incident reports for aquatic organisms that are associated with parathion also involve other pesticides. The results of laboratory studies, however, indicate some cause for concern.

C. Economic Benefits of Parathion

EPA's information indicates that parathion may be less expensive than its alternatives, have limited resistance problems, and have one of the broadest spectrums of insect pest control. Based on a U.S. Department of Agriculture (USDA) and EPA assessment, there appear to be viable alternatives to parathion for each use site. However, there are few published efficacy tests comparing parathion to its alternatives. If parathion were no longer available, EPA anticipates two or more insecticides might be needed in some situations to provide adequate pest control. There may be no known effective alternatives to parathion for certain pests, although these generally are thought not to cause significant damage. Parathion is also sometimes used in resistance management programs and in tank mixtures with other insecticides to augment control.

The Agency has determined that impacts to consumers from a cancellation of parathion registrations are likely to be negligible for all crops. On a national basis, the estimated losses would be minor (less than 1 percent) relative to the value of the crops, or $3.8 million to $31.7 million across all sites if no yield losses occur. If yield losses occur, as USDA believes, potential losses could range from $8 million to $64 million overall, which is still considered to be a minor impact to society as a whole. Impacts to individual farmers at a local level could be more severe, such as for some growers of alfalfa, barley, sorghum, sunflower, sweet corn, and wheat.

D. Risks of Alternatives to Parathion

The majority of the chemical alternatives identified for the remaining nine crop sites are organophosphates or synthetic pyrethroids. Possible alternatives include: azinphos-methyl, chlorpyrifos, dimethoate, disulfoton, esfenvalerate, malathion, methomyl, methyl parathion, and permethrin. All of the organophosphates pose potential acute human toxicity concerns; synthetic pyrethroids are considered highly toxic to aquatic organisms.

Based on laboratory data, a number of alternatives to parathion also may pose acute toxicity risks to birds for some crop-pest combinations. Few avian incidents, however, have been reported for the major alternatives on the nine remaining crop sites. The lack of incident reports for parathion alternatives suggests that parathion may pose more of a risk to avian species.

III. Additional Information Sought by EPA

EPA is required by law to ensure that pesticides do not pose unreasonable risks to people or the environment. As part of the ongoing evaluation process, EPA collects information about the risks and benefits of pesticides. To make an informed assessment of the risks and benefits of parathion, EPA requests input from the public in the following areas:

1. *Human risk.* This includes information about risks to workers or others exposed as a result of the remaining parathion uses. In particular, information about spray drift or other poisoning incidents or the likelihood of such incidents would be valuable.

2. *Environmental risk.* This includes information about the risks to nontarget organisms, including incidents of injury or death to birds and other wildlife, from parathion.

3. *Quantity of use.* This includes information about the amount of parathion used per farm, grower organization, state, or region; the amount of parathion being stored; and the costs of parathion.

4. *Use patterns.* This includes information about how and why parathion is used, such as pests controlled, efficacy, application rates and methods, frequency and timing of use, and advantages and disadvantages of parathion compared with alternative methods of control (including nonchemical methods). This also includes information about whether losses in yield or net income would be expected if parathion were no longer available.

5. *Risk mitigation measures.* This includes information about the effectiveness and limitations of current measures to reduce the risks of parathion and the advantages and disadvantages of other possible risk reduction measures. Examples of such measures would be modifying application methods, expanding buffer zones, reducing application rates, or deleting additional crop sites from the label.

6. *Alternatives.* This includes information about the use of alternative pesticides if parathion no longer were available, such as which pesticides would be used; human and environmental risks; costs; amounts used; number and rates of application; efficacy; pests controlled; effects on yield and net income; use restrictions; and any other information on alternative usage. This also includes information about nonchemical methods of controlling pests.

IV. Structure of the Open Meetings

EPA will open each meeting with a summary of the status of parathion and the purpose of the meeting, and then will invite members of the public that have registered by November 25 to make their presentations. If time is available, those who register the day of the meeting will be offered the opportunity to make a presentation. A break of approximately 1 hour will occur during the middle of the meeting, and EPA will provide another summary after the end of the break. EPA anticipates that each speaker will be provided with 10 minutes to speak, after which time the speaker may be asked questions from an EPA panel. EPA reserves the right to adjust the time for presentations depending on the number of people who wish to speak.

Members of the public are encouraged to also submit written documentation to EPA at the meeting to ensure that their entire position goes on record in the event that time does not permit a complete oral presentation. Written comments should include the name and address of the person submitting the information as well as a description of any sources used. As described earlier in this document, information also may be delivered to Brian Steinwand of EPA's Office of Pesticide Programs.

Dated: October 28, 1992.

Daniel M. Barolo,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92-26765 Filed 11-3-92; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4530-3]

National Enforcement Training Institute (NETI); Open Meetings

AGENCY: U.S. Environmental Protection Agency, Office of Enforcement.

Time and Place

November 18, 1992

The meeting will be held at the Hall of States, 444 North Capitol Street, NW., room 331, from 2 pm–5 pm.

November 19, 1992

The meeting will be held at the Hall of States, 444 North Capitol Street, NW., room 331, from 8:30 am–5 pm.

Agenda

November 18, 1992

- Opening Remarks by Subcommittee Chairman
- Discussion and Approval of Minutes from Last Meeting
- Revamping of the Standard Operating Procedures
- Adjournment and Date of Next Meeting

November 19, 1992

- Welcome & Introductions
- Report on NETI Training Activities
  The NETI Organizational Structure
  The Strategic Plan
- Curriculum Development Issues
- Assessing Training Needs
- Finance Issues
- Communications and Outreach Issues
- Training Delivery Issues
- Evaluation Issues
- NETI West
- Wrap Up
- Public Comment
- Adjournment

PUBLIC PARTICIPATION: Both meetings are open to the public. Limited seating for interested members of the public is available on a first-come, first served basis.

FOR FURTHER INFORMATION CONTACT: Alice Mims, Training Coordinator, Office of Enforcement, Mail Code LE-133, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (202) 260-4452; telefax: (202) 260-7839.

Dated: October 27, 1992.

Alice M. Mims,

Training Coordinator, NETI.

[FR Doc. 92-26769 Filed 11-3-92; 8:45 am]

BILLING CODE 6560-50-M

[OPP-34036; FRL 4169-2]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on February 2, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 220, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the four pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before February 2, 1993 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration No.	Product Name	Delete From Label
000400-00069	B-Nine	Azaleas/nursery use
000400-00110	B-Nine, SP	Azaleas/nursery use
000524-00152	Granular Ramrod 20 Selective Herbicide	Sweet corn, soybeans
003125-00009	DIPTEREX Technical Insecticide	Barley, wheat, aquatic & non-food uses on bait fish, gold fish, alfalfa (seed crop), clover (seed crop), alfalfa (including grass mixtures), bananas, birdsfoot trefoil, blueberries, table beets, clover (including grass mixtures), corn (field, pop, sweet), cotton, pumpkins, soybeans (seed crop), tomatoes, tobbacco, domestic dwellings, garbage dumps, latrines, recreational areas (including picnic areas), poultry packing plants, commercial, institutional, and industrial areas (inedible product areas), food processing, handling and storage plants areas (inedible product areas)

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company No.	Company Name and Address
000400	Uniroyal Chemical Company, Inc., 74 Amity Road, Bethany, CT 06524.
000524	Monsanto Company, 700 14th St., N.W., Suite 1100, Washington, DC 20005.
003125	Mobay Corp., Agricultural Chemicals Division, Box 4913, Kansas City, MO 64120.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

Dated: October 23,1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-26655 Filed 11-3-92; 8:45 am]

Billing Code 6560-50-F

[OPP-34035; FRL 4169-1]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on February 2, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 220, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703) 305-5761.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 19 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before February 2, 1993 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration No.	Product Name	Delete From Label
000707-00053	Karathane-WD Fungicide/Miticide	Apples (nursery and orchard), apricots, cherries, citrus, grapes, peaches (nusery and orchard), pears, cantaloupes, cucumbers (field and greenhouse), melons, pumpkins, squash
000707-00071	Karathane-LC Fungicide/Miticide	Apples (nusery and orchard), apricots, cherries (nusery), citrus, grapes, peaches (nusery and orchard), pears, cantaloupes, cucumbers, melons, pumpkins, squash
000707-00093	Dikar	Apples, grapes, pears, melons, cantaloupes, cucumbers, pumpkins, squash, assorted grasses
000707-00202	Kelthane MF Agricultural Miticide	Grapes
002724-00314	Safrotin Emulsifiable Concentrate Insecticide	On buildings and structures and their immediate surroundings, modes of transportation, vessels, rail cars, trucks, trailers, aircraft
002724-00340	Zoecon RF-256 Aerosol	On buildings and structures and their immediate surroundings, modes of transportation, vessels, rail cars, trucks, trailers, aircraft
002724-00355	Zoecon RF-270 Emulsifiable Concentrate	On buildings and structures and their immediate surroundings, modes of transportation, vessels, rail cars, trucks, trailers, aircraft
002792-00038	Deccoquin 305 Concentrate	Apples
003125-00184	DYLOX 80% Soluble Powder	Alfalfa, clover, corn (field, sweet, popcorn), birds-foot trefoil, cotton, tobacco, seed field crops (alfalfa, clover, soybeans), blueberries, pumpkins, table beets, tomatoes
007501-00014	Gustafson 42-S Thiram Fungicide	Use as a repellant on fruit trees, shrubs, ornamentals, nusery stock from rabbit and deer depredation
007501-00020	Thiram Technical Agricultural Fungicide	For manufacturing use in formulation of products registered for non-seed treatment use
009779-00218	Methyl Parathion 7.2	Peppers, tobacco, tomatoes
010182-00258	Devrinol 50-DF Selective Herbicide	Mint
010356-00019	Copsol Fungicide Spray Concentrate	Beans, carrots, celery, citrus, cucurbits, grapes, peanuts, peppers, potatoes (irish), strawberries, sugar beets, tomatoes
034704-00010	Methyl Parathion 4E	Apples, artichokes, cucumbers, gooseberries, grapes, hops, ornamentals, peaches, pears, peppers, pine, plums, prunes, safflower, strawberries, tobacco, tomatoes

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Registration No.	Product Name	Delete From Label
034704-00433	Methyl Parathion 5E	Apples, peaches, pears, tomatoes, grapes
034704-00478	Methyl Parathion-Thiosulfan 1.5-1.5EC	Tomatoes
034704-00602	Benomyl 50% DF Systemic Fungicide	Post harvest uses on apples, citrus, pears, stone fruits, ornamentals, turf
059639-00043	Valent Naled Technical	Tobacco

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2. — REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company No.	Company Name and Address
000707	Rohm & Haas Co., Agri. Chemicals Registration & Regulator, Independence Mall W., Philadelphia, PA 19105.
002724	Zoecon Corp., A Sandoz Co., 12200 Denton Drive, Dallas, TX 75234.
002792	Elf Atochem N.A. Inc., Decco Division, Three Parkway, Philadelphia, PA 19102.
003125	Miles Inc., Agriculture Division, 8400 Hawthorn Rd, Box 4913, Kansas City, MO 64120.
007501	Gustafson, Inc., Box 660065, Dallas, TX 75266.
009779	Riverside/Terra Corp., 600 Fourth St, Sioux City, IA 51101.
010182	ICI Americas Inc., Agricultural Products, New Murphy Rd. & Concord Pike, Wilmington, DE 19897.
010356	Chemical Specialties, Inc., One Woodlawn Green, Charlotte, NC 28217.
034704	Platte Chemical Co., Inc., c/o William M. Mahlburg, Box 667, Greeley, CO 80632.
059639	Valent U.S.A. Corp., c/o ICI Americas, Inc., Concord Pike & New Murphy Rd, Wilmington, DE 19897.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

Dated: October 23, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-26657 Filed 11-3-92; 8:45 am]

Billing Code 6560-50-F

FARM CREDIT ADMINISTRATION

[Farm Credit Administration Order No. 911]

Authority Delegations: Authorization to Authenticate Documents, Certify Official Records, and Affix Seal

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Chairman of the Board and Chief Executive Officer of the Farm Credit Administration issued Order No. 911 authorizing certain employees to authenticate documents, certify official records, and affix seal. The text of the Order is as follows:

1. The Secretary to the Board, the Administrative Officer, Office of General Counsel, and the Paralegal Specialist, Regulation Development Division, Office of Examination, individually, are authorized and empowered:

a. To execute and issue under the seal of the Farm Credit Administration, statements (1) authenticating copies of, or excerpts from, official records and files of the Farm Credit Administration; (2) certifying, on the basis of the records of the Farm Credit Administration, the effective periods of regulations, orders, instructions, and regulatory announcements; and (3) certifying, on the basis of the records of the Farm Credit Administration, the appointment, qualification, and continuance in office of any officer or employee of the Farm Credit Administration, or any conservator or receiver acting under the direction of the Farm Credit Administration.

b. To sign official documents and to affix the seal of the Farm Credit Administration thereon for the purpose of attesting the signature of officials of the Farm Credit Administration.

2. The provisions of this Order are effective immediately and supersede Farm Credit Administration Order No. 889 dated March 16, 1989.

The original order was signed by Harold B. Steele, Chairman and Chief Executive Officer, on October 28, 1992.

Dated: October 30, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-26774 Filed 11-3-92; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

October 26, 1992.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: None

Title: Section 90.607, Supplemental information to be furnished by applicants for facilities under this subpart (Report and Order, PR Docket No. 89-553)

Action: New collection

Respondents: Individuals or households, businesses or other for-profit (including small businesses)

Frequency of Response: Other: one-time filing requirement.

Estimated Annual Burden: 20 responses; 2.5 hours average burden per

response; 50 hours total annual burden.

Needs and Uses: FCC rules require applicants for new nationwide systems in the 900 MHz band to append additional information to the FCC Form 574 to demonstrate that they meet the entry criteria specified in new rule section 47 CFR 90.607(d). This is a one-time collection of information at the time of application for the new nationwide systems in the 900 MHz band. Licensing Division personnel will use the data to determine the eligibility of the applicant to hold a radio station authorization. Land Mobile and Microwave Division personnel will use the data for rule making proceedings. Compliance personnel in conjunction with field engineers will use the data for enforcement purposes.

OMB Number: None

Title: Section 90.631, Trunked system loading, construction, and authorization requirements (Report and Order, PR Docket No. 89–553)

Action: New collection

Respondents: Business or other for-profit (including small businesses)

Frequency of Response: Other: 4, 6, and 10 years after initial license; every 10 years after license grant.

Estimated Annual Burden: 10 responses; 1.5 hours average burden per response; 15 hours total annual burden.

Needs and Uses: Section 90.631 requires licensees of nationwide systems in the 900 MHz band to file a system progress report on or before the anniversary data of the grant of their license to demonstrate that they have met the construction benchmarks specified in 47 CFR 90.631. The information is collected 4, 6, and 10 years after the initial grant of a nationwide license. After the license grant the information will only be collected every 10 years as part of the licensee's renewal application. Licensing Division personnel will use the data to determine whether nationwide licensees have fulfilled the mandatory construction requirements as set forth in 90.631 in order to determine whether or not the licensee will maintain rights to the licensed spectrum. Land Mobile and Microwave personnel will use the data for rule making proceedings. Compliance personnel in conjunction with field engineers will use the data for enforcement purposes.

Federal Communications Commission.

William Caton,

Acting Secretary.

[FR Doc. 92–26689 Filed 11–3–92; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–011259–003.

Title: United States/Southern Africa Conference Agreement.

Parties: Empresa de Navegacao Internacional, Lykes Bros. Steamship Co., Inc., Safbank Line, Ltd.

Synopsis: The proposed amendment (1) adds East Africa to the geographic scope; (2) changes the name of the Agreement to the United States/Southern and Eastern Africa Conference Agreement; (3) adds Bank Line East Africa Limited as a party; (4) expands the scope of the Agreement to include the range from the northern border of Namibia to Cape Guardafui, Somalia; (5) restates and clarifies the authority of the Agreement and makes other technical changes to membership and voting guidelines; and (6) authorizes the parties to discuss and agree upon common cargo inspection systems, sailing schedules and service frequency, and joint utilization of equipment.

Agreement No.: 224–003877–004.

Title: City of Long Beach and Crescent Terminals, Inc., Preferential Assignment Agreement.

Parties: The City of Long Beach, Crescent Terminals, Inc. ("Crescent").

Synopsis: The Agreement reflects a one-time reduction of Crescent's guaranteed annual minimum from 326,950 metric revenue tons to 303,457 metric revenue tons.

Agreement No.: 124–011004–002.

Title: State of Hawaii/Puget Sound Tug & Barge Company d.b.a. Hawaiian Marine Lines Leasing Agreement.

Parties: The State of Hawaii, Puget Sound Tug & Barge company d.b.a. Hawaiian Marine Lines ("HML").

Synopsis: The Agreement reflects the assignment of Harbor Lease No. H–86–8, Pier 2, originally between the State of Hawaii and HML, to Crowley Marine Services, Inc.

By Order of the Federal Maritime Commission.

Dated: October 29, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 92–26690 Filed 11–3–92; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Citizens Bancshares of Woodville, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 27, 1992.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Citizens Bancshares of Woodville, Inc., Woodville, Wisconsin; to merge with Elmwood Financial Services, Inc., Elmwood, Wisconsin, and thereby indirectly acquire First State Bank, Elmwood, Wisconsin.

2. Norwest Corporation, Minneapolis, Minnesota; to merge with Merchants

and Miners Bancshares, Inc., Hibbing, Minnesota, and thereby indirectly acquire Merchants and Miners State Bank of Hibbing, Hibbing, Minnesota.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Granby Bancshares, Inc., Neosho, Missouri; to merge with Anderson Bancshares, Inc., Neosho, Missouri, and thereby indirectly acquire Anderson State Bank, Anderson, Missouri, and also to merge with Neosho Bancshares, Inc., Neosho, Missouri, and thereby indirectly acquire Bank of Neosho, Neosho, Missouri.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Martex Bancshares, Inc., Gladewater, Texas; to merge with Mineola Bancshares, Inc., Mineola, Texas, and thereby indirectly acquire Mineola State Bank, Mineola, Texas.

Board of Governors of the Federal Reserve System, October 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-26721 Filed 11-3-92; 8:45 am]

BILLING CODE 6210-01-F

The Toronto-Dominion Bank; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. The Toronto-Dominion Bank, Toronto, Canada; to engage *de novo* through its subsidiary, Toronto Dominion Securities (USA) Inc., New York, New York, in providing foreign exchange advisory and transactional services pursuant to § 225.25(b)(17) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-26722 Filed 11-3-92; 8:45 am]

BILLING CODE 6210-01-F

U.S. Trust Corporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1992.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. U.S. Trust Corporation, New York, New York; to acquire Campbell, Cowperthwait & Co., Inc., New York, New York, and thereby engage in investment advisory activities pursuant to § 225.25(b)(4)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-26723 Filed 11-3-92; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney

General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 101392 AND 102392

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN No.	Date terminated
VoiceCom Systems, Inc., MCI Communications Corporation, ASYNC Corporation	92-1459	10/13/92
GranCare, Inc., Equity Group Investments, Inc., Professional Health Care Management, Inc	92-1578	10/13/92
Times Mirror Company (The), Mark C. Falb, Wm. C. Brown Company, Publishers	92-1579	10/13/92
Ford Motor Company, Trans-National Leasing, Inc., Trans-National Leasing, Inc	92-0001	10/13/92
Octel Communications Corporation, Ameritech Corporation, The Tigon Corporation	92-1535	10/14/92
President and Fellows of Harvard College, Marine Drilling Companies, Inc., Marine Drilling Companies, Inc	92-1570	10/14/92
Koch Industries, Inc., United Gas Holding Corporation, United Gas Pipe Line Company	92-1571	10/14/92
Pennzoil Corporation, Chevron Corporation, Chevron PBC, Inc	93-0005	10/14/92
Tele-Communications, Inc., Tele-Communications, Inc., United Cable Television of East San Fernando Valley Ltd	93-0008	10/14/92
Standard Chartered PLC, First Interstate Bancorp, First Interstate Bank International	92-1518	10/15/92
THORN EMI plc, Billy Ray Hearn, The Sparrow Corporation	93-0007	10/15/92
MariFarms, Inc., Unilever N.V./Unilever PLC, Marine Harvest Limited	92-1451	10/19/92
Hewlett-Packard Company, Colorado Memory Systems, Inc., Colorado Memory Systems, Inc	92-1545	10/19/92
Sun Company, Inc., Olin Corporation, Olin Corporation	92-1546	10/19/92
General Motors Corporation, A. Alfred Taubman, Taubman Centers, Inc	92-1567	10/19/92
A. Alfred Taubman, General Motors Corporation, Briarwood Associates	92-1568	10/19/92
John Labatt Limited, BCL Entertainment Corp., BCL Entertainment Corp	92-1577	10/19/92
Morgan Stanley Leveraged Equity Fund II, L.P. (The), American Italian Pasta Company, American Italian Pasta Company	92-1582	10/19/92
Sara Lee Corporation, Simon Mani, International Baking Company, Inc	93-0003	10/19/92
Sara Lee Corporation, Daniel Mani, International Baking Company, Inc	93-0004	10/19/92
PRIMERICA CORPORATION, The Travelers Corporation, The Travelers Corporation	93-0010	10/19/92
Travelers Corporation (The), PRIMERICA CORPORATION, Commercial Insurance Resources, Inc	93-0011	10/19/92
Catherine Stores Corporation, Virginia Specialty Stores, Inc., Virginia Specialty Stores, Inc	93-0016	10/19/92
AIF II, L.P., Murray L. Katz, Empire Kosher Poultry, Inc	93-0018	10/19/92
Zell/Chilmark Fund, L.P., Jacor Communications, Inc., Jacor Communications, Inc	93-0019	10/19/92
Abdullah Taha Bakhsh, Hartmarx Corporation, Hartmarx Corporation	93-0022	10/19/92
Thomas Nelson, Inc., Capital Cities/ABC, Inc., Word, Incorporated	93-0026	10/19/92
Mannesmann AG, Usinor Sacilor, Berg Steel Pipe Corp	93-0029	10/19/92
Carlyle Partners Leveraged Capital Fund I, L.P., General Dynamics Corporation, General Dynamics Corporation	93-0041	10/20/92
U S West, Inc., U S West, Inc., Eugene-Springfield Limited Partnership	93-0058	10/20/92
Baptist Healthcare System, Inc., Columbia Hospital Corporation, Tri-County Community Hospital	93-1539	10/21/92
R. Drayton McLane, Jr., John J. McMullen, Houston Sports Association, Inc	93-0012	10/21/92
Capital Management Services, Inc., USX Corporation, Maratho Oil Company	93-0015	10/21/92
Honeywell Inc., Environmental Air Control, Inc., Environmental Air Control, Inc	93-0036	10/21/92
Thermo Electron Corporation, Anthony J. Pellegrino, Lorad Corporation	92-1588	10/23/92
Dana Corporation, Andrew J. Krizman, Krizman, Inc	92-1589	10/23/92
Kmart Corporation, Louis H. Borders, Borders, Inc	93-0014	10/23/92
Kmart Corporation, Thomas P. Borders, Borders, Inc	93-0020	10/23/92
The Morgan Stanley Leveraged Equity Fund II, L.P., Adam J. Liff, Tennessee Valley Steel Corp	93-0028	10/23/92
Anthony J. Petrocelli, Newco, Inc., Newco, Inc	93-0039	10/23/92
D. George Harris, Newco, Inc., Newco, Inc	93-0040	10/23/92
Zodiac S.A., Hanson PLC, Weber Aircraft Inc	93-0045	10/23/92
MBNA Corporation, Independent Bank Corp., Rockland Trust Company	93-0070	10/23/92
Ford Motor Company, First Financial Management Corporation, First Family Financial Services, Inc	93-0075	10/23/92
Melvin Simon, Melvin Simon, White Oaks Mall Company ("WOMC")	93-0083	10/23/92
The Montana Power Company, North American Energy Services Company, North American Energy Services Company	93-0084	10/23/92

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 92-26759 Filed 11-3-92; 8:45 am]

BILLING CODE 6750-01-M

[File No. 922 3138]

Site for Sore Eyes, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a California chain of retail stores that sell eye-care products and services to have competent and reliable scientific evidence to substantiate any future claim that any lens, share, coating or other material sold in connection with eyeglasses protects eyes from radiation from any source. In addition, the respondent would be required to maintain materials relied upon to substantiate claims covered by the order and to distribute copies of the order to specified individuals and entities.

DATES: Comments must be received on or before January 4, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Linda Badger or Matthew Gold, San Francisco Regional Office, Federal Trade Commission, 901 Market St., suite 570, San Francisco, CA. 94103. (415) 744-7920.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent

agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of Site for Sore Eyes, Inc., a corporation

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission, having initiated an investigation of certain acts and practices of Site for Sore Eyes, Inc. ("respondent"), and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by respondent, by its duly authorized officers and its attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Site for Sore Eyes, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of California. The principal place of business of this corporation is located at 3512 Breakwater Court, Hayward, California, 94545.

2. Proposed respondent admits all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent of facts, other than jurisdictional facts, or of violations of law as alleged in the draft of complaint here attached.

6. This agreement contemplates that if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondent, (a) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to the proposed respondent's address as stated in this agreement shall constitute service. The proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. The proposed respondent has read the attached draft complaint and the following order. The proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. The proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered That respondent Site for Sore Eyes, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of any eyeglass or eyeglass related device or product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, directly or by implication, that such product protects eyes from radiation from any source, unless at the time of making such representation, respondent possesses and relies upon competent and reliable scientific evidence that substantiates the representation.

For purposes of this Order, "competent and reliable scientific evidence" shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

For purposes of this Order, "eyeglass related device or product" shall mean any lens, shade, coating, or other material sold in connection with eyeglasses.

II.

It is further ordered That for five (5) years after the last date of dissemination of any representation covered by this Order, respondent, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All advertisements, promotional materials, documents, or other materials relating to the offer for sale or sale of any product covered by this Order that make any representation covered by this Order;

B. All materials relied upon by respondent to substantiate any representation covered by this Order;

C. All test reports, studies, experiments, analyses, research, surveys, demonstrations, or other materials in the possession or control of respondent that contradict, qualify, or call into question any representation covered by this Order or the basis on which respondent relied for such representation, including complaints from consumers.

III.

It is further ordered That respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution

of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of this Order.

IV.

It is further ordered That respondent shall, within ten (10) days from the date of service of this Order upon them, distribute a copy of this Order to any individual or entity who or which is involved in the preparation and placement of advertisements or promotional materials, or communicates with customers or prospective customers regarding the use of any product covered by this Order, and shall obtain from each such individual or entity a signed and dated statement acknowledging receipt of this Order.

V.

It is further ordered That respondent shall, within sixty (60) days from the date of service of this Order upon it, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Site for Sore Eyes, Inc., a California corporation, engaged in the sale of eye care products and services.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comment by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns the advertising of a coating for eyeglasses applied to protect consumers from ultraviolet ("UV") radiation. The Commission's complaint charges that respondent's advertising contained unsubstantiated representations that this coating will protect consumers from harmful UV radiation emitted by computer screens. Specifically, the complaint alleges that the respondent lacked substantiation for claims that computer screens emit UV radiation that is harmful to the eyes, and that its UV protective coating will protect the eyes from such harmful radiation.

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future. To this end, the proposed order provides that if the respondent represents that any eyeglass or eyeglass related device or product protects eyes from radiation from any source, it must possess and rely upon competent and reliable scientific evidence that substantiates the representation.

The proposed order also requires the respondent to maintain materials relied upon to substantiate claims covered by the order, to distribute copies of the order to each individual or entity involved in the advertisement or sale of its UV coating, to notify the Commission of any changes in its corporate structure that might affect compliance with the order, and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 92-26757 Filed 11-3-92; 8:45 am]

BILLING CODE 6750-01-M

[File No. 911 0101]

Southeast Colorado Pharmacal Association; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Colorado-based association of pharmacies, that dispense prescriptions which are paid for by third-party payers according to predetermined formulas, from entering into or threatening to enter into any agreement with pharmacies to withdraw or refuse to participate in these kinds of reimbursement programs in the future.

DATES: Comments must be received on or before January 4, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Claude Wild, III or Jeff Dahnke, Denver Regional Office, Federal Trade Commission, 1405 Curtis St., Suite 2900, Denver, CO 80202, (303) 844-2271 or 844-2254.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Southeast Colorado Pharmacal Association ("SCPhA") and it now appearing that SCPhA, hereinafter referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between SCPhA, by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent Southeast Colorado Pharmacal Association is an unincorporated association of pharmacies with its office and principal place of business located at 15 W. 22nd Avenue, La Junta, Colorado 81050.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in

respect thereto will be publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address, as stated in this agreement, shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I.

For purposes of this order, the following definitions shall apply:

A. "SCPhA" means the Southeast Colorado Pharmacal Association and its directors, committees, officers, representatives, agents, employees, successors and assigns;

B. "Third-party payer" means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical or other health service plans, such as Blue Shield and Blue Cross plans; health maintenance organizations; preferred provider organizations; government health benefits programs; prescription service administrative organizations; administrators of self-insured health benefits programs; and employers or other entities providing self-insured health benefits programs;

C. "Participation agreement" means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. "Pharmacy firm" means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II.

It is Ordered That SCPhA, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, forthwith cease and desist from:

A. Entering into, threatening or attempting to enter into, organizing, encouraging, continuing, cooperating in, or carrying out any agreement between or among pharmacy firms, either express or implied, to withdraw from, threaten to withdraw from, refuse to enter into, or threaten to refuse to enter into any proposed or existing participation agreement;

B. For a period of five (5) years after the date this order becomes final, continuing a formal or informal meeting of representatives of pharmacy firms after (1) any person makes any statement concerning one or more firms' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement and SCPhA fails to eject such person from the meeting, or (2) two persons make such statements;

C. For a period of five (5) years after the date this order becomes final, providing advice to any pharmacy firm on the desirability or appropriateness of participating in any existing or proposed participation agreement. Provided, however, that nothing in this Paragraph II.C. shall prohibit SCPhA from communicating purely factual information describing the terms and conditions of any participation agreement or operations of any third-part payer;

D. For a period of five (5) years after the date this order becomes final, communicating in any way to any pharmacy firm any information concerning any other pharmacy firm's intention or decision with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement;

E. For a period of five (5) years after the date this order becomes final, soliciting from any pharmacy firm any information concerning that firm's or any other pharmacy firm's intention or decision with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement;

Provided, however, that nothing in this order shall be construed to prevent SCPhA from exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules, programs

or procedures, or to participate in any federal or state administrative or judicial proceeding.

III.

It is Further Ordered That SCPhA:

A. Distribute by first-class mail a copy of this order and the accompanying complaint to each of SCPhA's members within thirty (30) days after the date this order becomes final;

B. For a period of five (5) years after the date this order becomes final, provide each new SCPhA member with a copy of this order at the time the member is accepted into membership;

C. File a verified written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five years on the anniversary of the date this order becomes final, and at such other times as the Commission may require, by written notice to SCPhA, setting forth in detail the manner and form in which it has complied and is complying with this order;

D. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Paragraphs II. and III. of this order, including but not limited to, all documents generated by SCPhA or that come into SCPhA's possession, custody, or control regardless of source, that embody, discuss or refer to the terms or conditions of any participation agreement; and

E. Notify the Commission at least thirty (30) days prior to any proposed change in SCPhA such as, assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, or any other change that may affect compliance with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Southeast Colorado Pharmacal Association ("proposed respondent" or "SCPhA").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Description of Complaint

A complaint prepared for issuance by the Commission along with the proposed order alleges that members of proposed respondent agreed to refuse to participate in the Public Employees' Retirement Association of Colorado ("PERA") drug prescription program. The complaint alleges that the agreement required consumers to pay higher prices for prescription drugs. More specifically, the complaint alleges the following facts.

Southeast Colorado Pharmacal Association is an association of pharmacies engaged in the business of the retail sale of prescription drugs throughout the southeastern portion of the State of Colorado.

Customers often receive prescriptions through health benefit programs under which third-party payers compensate the pharmacy according to a predetermined formula. Through PERA, the State of Colorado offers a health care program to retired employees which includes a prescription drug plan. Prescription Card Services ("PCS"), a nationwide administrator, has administered the PERA drug prescription plan on behalf of PERA.

To administer prescription drug plans sponsored by third-party payers such as PERA, PCS enters into participation agreements with pharmacies under which pharmacies accept as payment in full a reimbursement of the ingredient cost of the drug plus a dispensing fee. The plan offered by PERA also requires insured individuals to pay part of the reimbursement in the form of a copayment.

The complaint alleges that effective July 1, 1988, PERA lowered its reimbursement to pharmacies for the ingredient cost of a prescription drug. In response to the change in reimbursement level, proposed respondent, acting through its president, John W. Geddes, communicated with association members regarding participation in the PERA plan and scheduled a meeting of the association to take place in July 1988. Mr. Geddes also advised members of his own intention not to participate in the plan.

The complaint alleges that during the meeting, members of SCPhA agreed to refuse to participate in the PERA plan. They also agreed to send a letter to PERA signed by all members of the association which informed PERA of the members' decision. The members finally agreed that if the letter to PERA did not resolve the reimbursement problem before September 30, 1988, then Mr. Geddes would notify PERA that a notice would be placed in local newspapers announcing to the public that all association pharmacies would no longer participate in the PERA plan. Acting on behalf of SCPhA, Mr. Geddes subsequently sent these letters to PERA and placed the notices in the local newspapers.

The complaint alleges that the agreement to refuse to participate in the PERA plan injured consumers in Colorado by reducing competition among pharmacies with respect to third-party prescription plans.

Description of the Proposed Consent Order

The proposed order would require the proposed respondent to cease and desist from entering into, organizing, or carrying out any agreement among pharmacy firms to withdraw from or refuse to enter into any participation agreement, defined as an agreement between a third-party payer and a pharmacy over the reimbursement for dispensing prescription drugs. The proposed order would also prohibit the proposed respondent, for a period of five years, from continuing any meetings of pharmacy representatives at which any two representatives make any statements with respect to their firm's decision about entering into any participation agreement, or if one person makes such statements and SCPhA fails to eject that person. It also prohibits proposed respondents, for a period of five years, from advising any pharmacy on the desirability of entering into any participation agreement and from communicating to any pharmacy any information concerning any other pharmacy's intention or decision to enter into a participation agreement. Finally, the order prohibits proposed respondent, for a period of five years, from soliciting from any pharmacy any information concerning that or any other pharmacy's intention or decision to enter into a participation agreement.

The order would not prohibit proposed respondent from (a) petitioning the government, or (b) making truthful and nondeceptive public statements about existing or proposed participation agreements.

The order would also require Southeast Colorado Pharmacal Association to distribute a copy of the order to its members, and it would require SCPhA to file compliance reports, to retain certain documents, and to notify the Commission of certain changes in its status.

The purpose of this analysis is to facilitate public comment on the

proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify its terms in any way.

The proposed consent order has been entered into for settlement purposes only and does not constitute an admission by the proposed respondent that the law has been violated as alleged in the complaint.

Donald S. Clark,

Secretary.

[FR Doc. 92-26756 Filed 11-3-92; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Federal Supply Service (FBP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090-0228, Nondiscrimination in Federal Financial Assistance Programs. This information is needed to ensure that recipients of Federal financial assistance distribute Federal surplus property in a nondiscriminatory manner.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405. Annual Reporting Burden: Respondents: 55; annual responses: 1; average hours per response: 16; burden hours: 800.

FOR FURTHER INFORMATION CONTACT: Thomas E. Henderson, (202) 501-1871. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: October 26, 1992.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 92-26691 Filed 11-3-92; 8:45 am]

BILLING CODE 6820-BR-M

Record of Decision—Revision

The General Services Administration (GSA) would like to inform the general public that the Record of Decision (ROD), published in the **Federal Register** on September 9, 1992 (Volume 57, Number 175), has been revised. The ROD announced GSA's decision to purchase land at the Metroview site in Prince George's County, Maryland, to consolidate the Internal Revenue Service (IRS) National Office.

Paragraph number three of the Section entitled "Metroview Environmental Mitigation", which was included in error, has been deleted from the ROD. This paragraph refers to the implementation of a Transportation Management Plan (TMP) as part of the mitigation strategies for the project.

A TMP has not yet been developed for the IRS National Office project. GSA and IRS will jointly undertake preparation of a TMP, which is expected to be completed in spring of 1993. Specific transportation mitigation strategies will be developed as part of the TMP. GSA and IRS plan to coordinate the development of the TMP with Prince George's County Maryland-National Capital Park and Planning Commission and with the National Capital Planning Commission.

Dated: October 22, 1992.

James C. Handley,

Regional Administrator.

[FR Doc. 92-26698 Filed 11-3-92; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Hearing: Reconsideration of Disapproval of Arkansas State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on December 16, 1992, at 9 a.m. in room 1930, 1200 Main Tower Building, Dallas, Texas to reconsider our decision to disapprove portions of Arkansas SPA 91-64.

CLOSING DATES: Requests to participate in the hearing as a party must be received by the Docket Clerk by, November 19, 1992.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 1849 Gwynn Oak Avenue, Meadowwood East Building, Groundfloor, Baltimore, Maryland 21207, Telephone: (410) 597-3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove portions of Arkansas State plan amendment (SPA) number 91-64.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Office will notify all participants.

Arkansas SPA 91-64 proposes to limit providers of optional rehabilitative hospital services to inpatient rehabilitative hospitals and preclude acute care/general hospitals from providing these services. In addition, the State proposes to limit its prescribed drug benefit to up to four prescriptions per month except for recipients at risk of institutionalization. Finally, the Arkansas SPA would limit the number of home health services available under the early and periodic screening, diagnosis and treatment benefit (EPSDT). HCFA disapproved the Arkansas SPA in its entirety. However, Arkansas has requested reconsideration of HCFA's decision to disapprove the portions of the SPA that would limit the prescribed drug benefit and the number of home health services available under the EPSDT benefit.

There are two issues in this matter. The first issue is whether Arkansas' proposal to limit the prescribed drug benefit to up to four prescriptions per month except for recipients at risk of institutionalization violates section 1902(a)(10) of the Act and Federal regulations at 42 CFR 440.240. Section 1902(a)(10) of the Act and regulations at 42 CFR 440.240 provide, in part, that services must be equal in amount, duration, and scope for all individuals in either the categorically needy group or within a covered medically needy group

The second issue is whether Arkansas' proposal to impose limitations on home health visits available under the EPSDT benefit violates section 1905(r)(5) of the Act which provides that all medically necessary services be available under the EPSDT benefit.

Section 1902(a)(10) of the Act and regulations at 42 CFR 440.240(b) relating to comparability of services provide that services must be equal in amount, duration, and scope for all individuals in either the categorically needy group or within a covered medically needy group. Arkansas' amendment proposes to limit its prescribed drug benefit to up to four prescriptions per month, with an exception granted to those at risk of institutionalization (who are allowed six prescriptions per month). Because only those at risk of institutionalization are to be granted an exception to the State's benefit limit, those categorically or medically needy individuals needing more than four monthly prescriptions but not at risk of institutionalization would be unable to obtain the additional prescriptions. HCFA believes such a proposal violates the Medicaid comparability provisions at section 1902(a)(10) of the Act and regulations at 42 CFR 440.240(b).

The Arkansas SPA would impose limits on the number of home health services available under the EPSDT benefit. Section 1905(r)(5) of the Act defines EPSDT as, among other things, any necessary health care, diagnostic services, treatment and other measures described in section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by screening services, whether or not such services are covered under the State plan. HCFA believes the Arkansas proposal violates section 1905(r)(5) because it does not provide for all medically necessary services but rather imposes flat service limits.

The notice to Arkansas announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. A. Jack Reynolds
Director
Arkansas Department of Human Services
P.O. Box 1437, Slot 329
Little Rock, Arkansas 72203-1437

Dear Mr. Reynolds: I am responding to your request for reconsideration of the decision to disapprove Arkansas State Plan Amendment (SPA) 91-64.

Arkansas SPA 91-64 proposes to limit providers of optional rehabilitative hospital services to inpatient rehabilitative hospitals and preclude acute care/general hospitals from providing these services. In addition, the State proposes to limit its prescribed drug benefit to up to four prescriptions per month except for recipients at risk of institutionalization. Finally, the Arkansas SPA would limit the number of home health services available under the early and periodic screening, diagnosis and treatment benefit (EPSDT).

The Health Care Financing Administration (HCFA) disapproved the Arkansas SPA in its entirety. However, Arkansas has requested reconsideration of HCFA's decision to disapprove the portions of the SPA that would limit the prescribed drug benefit and would limit the number of home health services available under the EPSDT benefit.

There are two issues in this matter. The first issue is whether Arkansas' proposal to limit the prescribed drug benefit to up to four prescriptions per month except for recipients at risk of institutionalization violates section 1902(a)(10) of the Social Security Act (the Act) and Federal regulations at 42 CFR 440.240. Section 1902(a)(10) of the Act and Federal regulations at CFR 440.240 provide, in part, that services must be equal in amount, duration, and scope for all individuals in either the categorically needy group or within a covered medically needy group. The second issue is whether Arkansas' proposal to impose limitations on home health visits available under the EPSDT benefit violates section 1905(r)(5) of the Act which provides that all medically necessary services be available under EPSDT benefit.

I am scheduling a hearing on your request for reconsideration to be held on December 16, 1992, at 9 a.m. in room 1930, 1200 Main Tower Building, Dallas, Texas. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed in 42 CFR part 430.

I am designating Mr. Stanley Krostar as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (410) 597-3013.

Sincerely,

William Toby, Jr.,

Acting Deputy Administrator.

Authority: Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18.

Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program.

Dated: October 29, 1992.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 92-26743 Filed 11-3-92; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs, Interior

Mission Valley Power Utility, Montana

AGENCY: Bureau of Indian Affairs, DOI.

ACTION: Notice of proposed pass-through rate adjustment for Mission Valley Power Utility.

SUMMARY: The Bureau of Indian Affairs is proposing a power rate adjustment to reflect the increased cost of purchased power for the Mission Valley Power Utility. The proposed rate adjustment is based on increased cost of power purchased from Montana Power Company's Kerr Dam Hydroelectric Facility.

DATES: Interested parties may submit written comments on or before December 4, 1992.

ADDRESSES: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE. 11th Ave., Portland, Oregon 97232-4169.

FOR FURTHER INFORMATION CONTACT: Portland Area Director, Portland Area Office, Bureau of Indian Affairs, 911 NE. 11th Ave., Portland, Oregon 97232-4169, telephone (503) 231-6750.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385).

This notice of proposed power rate adjustment and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 209 DM 8 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 2 incorporating 230 DM 3.2(C), and in accordance with § 175.13 of title 25 of the Code of Federal Regulations, which provide for the Area Director to adjust electric power rates to reflect changes in the cost of purchased power or energy.

The purpose of this notice is to announce a proposed adjustment in the Mission Valley Power Utility (MVP) electric power rates. This adjustment is the result of an increase in the electric power rates charged by Montana Power Company (MPC), one of three sources of electric power marketed by MVP. Pursuant to the Federal Energy Regulatory Commission license for the Kerr Dam Hydroelectric Facility, MPC is allowed to adjust their electric power rates annually based on the Consumer Price Index.

Prior to September 5, 1992 MPC's electric rate was 14.24 mills per kilowatt hour (kWh). This rate increased to 14.57 mills per kWh effective September 5, 1992, an increase of .33 mills.

The following table identifies the proposed power rate adjustment by consumer class.

Consumer class	Present rate ($0.00/kWh)	Proposed rate ($0.00/kWh)
Residential	$0.04375	$0.04385
#2 General*	0.0516	0.0517
Irrigation	0.0344	0.0345
Commercial**		
Block 1 (first 18,000 kWh)	0.04135	0.04145
Block 2 (over 18,000 kWh)	0.03328	0.03338

* Includes metered street lighting rates.
** Small and large commercial classes.

Based on 1,200 kWh usage a MVP residential customer's bill would increase from $63.50 under the current rate to $63.62 under the proposed adjusted rate.

Dated: October 28, 1992.

David J. Matheson,

Deputy Commissioner of Indian Affairs.

[FR Doc. 92-26736 Filed 11-3-92; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[WO-660-4120-02]

Federal-State Coal Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to inform the public that the Federal-State Coal Advisory Board (Board) will meet in Denver, Colorado, December 1, 1992. The public is invited to attend. The Board will (1) review the status of regional coal activities, (2) discuss the market outlook for coal, and (3) formulate a recommendation on a long-range lease sale plan for Federal coal.

DATES: The Board will meet at 9:30 a.m. on December 1, 1992.

ADDRESSES: The Board meeting will be held at the Best Western Courtyard Pines Hotel, 4411 Peoria Street, Denver, Colorado 80239, telephone (303) 373-5730.

SUPPLEMENTARY INFORMATION: The Board will review the status of coal leasing activities. Regional coal team representatives will present an update of coal leasing activities within their respective regions, including the outlook for lease sales and the current status of preference right lease applications and lease exchanges, where applicable. In addition, Headquarters Bureau of Land Management personnel will present for discussion information on current activities and issues that impact on the coal management program.

The Board will review the long-range outlook for coal markets and the prospective future demand for leasing Federal coal. This information will be used to assist the Board in formulating a recommendation on a long-range Departmental lease sale plan at this meeting.

The public will have an opportunity to address the Board on agenda topics during the public comment period noted on the agenda below. Written copies of a speaker's remarks would be appreciated. Any comments will become a part of the record of the Board meeting.

The Chairperson may impose a time limit on comments to ensure that everyone wishing to address the Board is able to do so.

Agenda—Federal-State Coal Advisory Board Meeting.
December 1, 1992.
Denver, Colorado.
Welcome and Introductions.
—BLM Director.
—Assistant Director, Energy and Mineral Resources.
—Other Staff.
—Review and Approval of 1991 Meeting Agenda.
—Approval of Meeting Minutes.
—Director's Remarks.
—Regional Coal Team Reports.
—Washington Office Report.
—Long-Range Market Outlook.
—Consideration of a Long-Range Lease Sale Plan.
—Impacts of Energy Bill.
—Discussion.
—Public Comments.
—Board Recommendation.
Adjourn.

FOR FURTHER INFORMATION: Frank Bruno, U.S. Department of the Interior, Bureau of Land Management (660), MIB 3538, 1849 C Street, NW., Washington, DC 20240, Telephone: (202) 208-4147.

Dated: October 28, 1992.

Susan Lamson,

Deputy Director for External Affairs.

[FR Doc. 92-26775 Filed 11-3-92; 8:45 am]

BILLING CODE 4310-84-M

[MT-020-93-4320-01]

Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Miles City District Office, Montana, Interior.

ACTION: Notice of meeting.

SUMMARY: The Miles City District Grazing Advisory Board will meet Wednesday, December 2, 1992 at 1 p.m. The meeting will be held in Spearfish, South Dakota, at the Holiday Inn.

The agenda for the meeting will include:

(1) PILT Payments and how grazing receipts are distributed
(2) Drought policy
(3) Subleasing
(4) Grazing Advisory Board Election Results
(5) Updates on South Dakota Resource Area transfer to North Dakota, FY 93 budget, and Hell Creek Memorandum of Understanding.

The meeting is open to the public and the Board can set aside time to hear public comments. The public may make oral statements before the Board or file written statements for the Board to consider. Depending on the number of persons wishing to make a statement, a per person time limit may be established.

Summary minutes of the meeting will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301 or phone (406) 232-4331.

Sandra E. Sacher,

Associate District Manager.

[FR Doc. 92-26720 Filed 11-3-92; 8:45 am]

BILLING CODE 4310-DN-M

[NM-940-03-4730-02]

Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below will be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico on November 30, 1992.

New Mexico Principal Meridian, New Mexico

T. 12 S., R. 10 E., Accepted September 16, 1992, for Group 730 NM.
T. 5 S., R. 1 E., Accepted September 16, 1992, for Group 898 NM.
T. 5 S., R. 15 W., Accepted September 16, 1992, for Group 863 NM.
T. 11 S., R. 10 E., Accepted September 22, 1992, for Group 730 NM.
T. 23 N., R. 10 E., Accepted September 16, 1992, for Group 769 NM.
Second Standard Parallel S. through R. 11 E., Accepted September 22, 1992, for Group 730 NM.

Indian Meridian, Oklahoma

T. 24 N., R. 6 E., Accepted September 16, 1992, for Group 55 OK.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, a notice that they wish to protest prior to the proposed official filing date given above.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

These plats will be in the files of the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico 87502–7115. Copies may be obtained from this office upon payment of $2.50 per sheet.

Dated: October 22, 1992.

Stephen W. Beyerlein,

Acting Chief, Cadastral Survey.

[FR Doc. 92–26374 Filed 11–3–92; 8:45 am]

BILLING CODE 4310–FB–M

Minerals Management Service

[FES 92–28]

Gulf of Mexico Region; Availability of the Final Environmental Impact Statement for Proposed Central and Western Gulf of Mexico Sales 142 and 143

October 30, 1992.

The Minerals Management Service has prepared a final Environmental Impact Statement (EIS) relating to proposed 1993 Outer Continental Shelf (OCS) Oil and Gas Lease Sales 142 and 143 in the Central and Western Gulf of Mexico. The proposed Central Gulf Sale 142 will offer for lease approximately 28 million acres, and the Western Gulf Sale 143 will offer approximately 26 million acres.

Single copies of the final EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Region, Attention: Public Information Office, 1201 Elmwood Park Boulevard, room 114, New Orleans, Louisiana 70123.

Copies of the final EIS will also be available for review by the public in the following libraries:

Texas

Austin Public Library, 402 West Ninth Street, Austin
Houston Public Library, 500 McKinney Street, Houston
Dallas Public Library, 1513 Young Street, Dallas
Brazoria County Library, 410 Brazoport Boulevard, Freeport
LaRatama Library, 505 Mesquite Street, Corpus Christi
Texas Southmost College Library, 1825 May Street, Brownsville
Rosenberg Library, 2310 Sealy Street, Galveston
Texas State Library, 1200 Brazos Street, Austin
Texas A&M University, Evans Library, Spence and Lubbock Streets, College Station
University of Texas, Lyndon B. Johnson School of Public Affairs Library, 2313 Red River Street, Austin
The University of Texas at Dallas Library, 2601 North Floyd Road, Richardson
Lamar University, Gray Library, Virginia Avenue, Beaumont
East Texas State University Library, 2600 Neal Street, Commerce
Stephen F. Austin State University, Steen Library, Wilson Drive, Nacogdoches
University of Texas, 21st and Speedway Streets, Austin
University of Texas Law School, Tarlton Law Library, 727 East 26th Street, Austin
Baylor University Library, 13125 Third Street, Waco
University of Texas at Arlington, 701 South Cooper Street, Arlington
University of Houston-University Park, 4800 Calhoun Boulevard, Houston
University of Texas at El Paso, Wiggins Road and University Avenue, El Paso
Abilene Christian University, Margaret and Herman Brown Library, 1600 Campus Court, Abilene
Texas Tech University Library, 18th and Boston Streets, Lubbock
University of Texas at San Antonio, John Peace Boulevard, San Antonio

Louisiana

Tulane University, Howard Tilton Memorial Library, 7001 Freret Street, New Orleans
Louisiana Tech University, Prescott Memorial Library, Everet Street, Ruston
New Orleans Public Library, 219 Loyola Avenue, New Orleans
University of New Orleans Library, Lakeshore Drive, New Orleans
Louisiana State University Library, 760 Riverside Road, Baton Rouge
Lafayette Public Library, 301 W. Congress Street, Lafayette
Calcasieu Parish Library, 411 Pujo Street, Lake Charles
McNeese State University, Luther E. Frazar Memorial Library, Ryan Street, Lake Charles
Nichols State University, Nicholls State Library, Leighton Drive, Thibodaux
University of Southwestern Louisiana, Dupre Library, 302 East St. Mary Boulevard, Lafayette
LUMCOM, Library, Star Route 541, Chauvin

Mississippi

Harrison County Library, 14th and 21st Avenues, Gulfport
Gulf Coast Research Lab., Gunter Library, 703 East Beach Drive, Ocean Springs

Alabama

Auburn University at Montgomery, Library, Taylor Road, Montgomery
University of Alabama Libraries, 809 University Boulevard East, Tuscaloosa
Mobile Public Library, 701 Government Street, Mobile
Montgomery Public Library, 445 South Lawrence Street, Montgomery
Gulf Shores Public Library, Municipal Complex, Route 3, Gulf Shores
Dauphin Island Sea Lab, Marine Environmental Science Consortium, Library, Bienville Boulevard, Dauphin Island
University of South Alabama, University Boulevard, Mobile

Florida

University of Florida Libraries, University Avenue, Gainesville
Florida A&M University, Coleman Memorial Library, Martin Luther King Boulevard, Tallahassee
Florida State University, Strozier Library, Call Street and Copeland Avenue, Tallahassee
Florida Atlantic University, Library 20th Street, Boca Raton
University of Miami Library, 4600 Rickenbacker Causeway, Miami
University of Florida, Holland Law Center Library, Southwest 25th Street and 2nd Avenue, Gainesville
St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg
West Florida Regional Library, 200 West Gregory Street, Pensacola
Florida Northwest Regional Library System, 25 West Government Street, Panama City
Leon County Public Library, 127 North Monroe Street, Tallahassee
Lee County Library, 3355 Powler Street, Fort Myers
Charlotte-Glades Regional Library System, 2280 NW Aaron Street, Port Charlotte
Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa
Key Largo Public Library, 99551 No. 3 Overseas Highway, Key Largo
Selby Public Library, 1001 Boulevard of the Arts, Sarasota
Collier County Public Library, 650 Central Avenue, Naples
Marathon Public Library, 3152 Overseas Highway, Marathon
Monroe County Public Library, 700 Fleming Street, Key West.

Dated: October 30, 1992.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

Approved:

Jonathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 92–26781 Filed 11–3–92; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-532-537 (Final)]

Certain Circular, Welded, Non-Alloy Steel Pipes and Tubes From Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Brazil, the Republic of Korea, Mexico, Taiwan,[2] and Venezuela [3] of the pipes and tubes subject to investigation (except finished conduit and mechanical tubing), generally known as standard and structural pipes and tubes, provided for in subheadings 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

The Commission also determines, pursuant to section 735(b) of the Act, that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Romania of the pipes and tubes subject to investigation (including finished conduit and mechanical tubing), provided for in subheadings 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at LTFV.[4]

Finally, the Commission determines, pursuant to section 735(b) of the Act, that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil, the Republic of Korea, Mexico, Taiwan, and Venezuela of finished conduit or of mechanical tubing, provided for in subheadings 7306.30.10 and 7306.30.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at LTFV.

Background

The Commission instituted these investigations effective April 24, 1992, following preliminary determinations by the Department of Commerce that imports of certain circular, welded, non-alloy steel pipes and tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 20, 1992 (57 FR 21428). The hearing was held in Washington, DC, on September 15, 1992, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on September 26, 1992. The views of the Commission are contained in USITC Publication 2564 (October 1992), entitled "Certain Circular, Welded, Non-alloy Steel Pipes and Tubes from Brazil, the Republic of Korea, Mexico, Romania, Taiwan, and Venezuela: Determinations of the Commission in Investigations Nos. 731-TA-532-537 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: October 30, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 92-26762 Filed 11-3-92; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Crawford did not participate in the investigation involving Taiwan.

[3] Commissioners Brunsdale and Crawford dissented with regard to the determination involving Venezuela.

[4] Chairman Newquist dissented, except with regard to finished conduit and mechanical tubing.

DEPARTMENT OF JUSTICE

Information Collections Under Review

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and,

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Don Wolfrey, on (202) 514-4115. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible. Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Don Wolfrey, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Revision of a Currently Approved Collection

(1) Preliminary Application for Employment
(2) FD-646. Federal Bureau of Investigation
(3) One time response
(4) Individuals or households. The FD-646 information is used to determine qualifications, suitability, and availability of applicants who apply for employment.
(5) 82,800 annual responses at 1.0 hour per response
(6) 83,100 annual burden hours
(7) Not applicable under 3504(h)

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Notice of Appeal
(2) I-694. Immigration and Naturalization Service
(3) One time only

(4) Individuals or households. The I–694 information is used to consider appeals of denials of temporary and permanent residence status by legalization applicants and special agricultural workers.
(5) 20,000 annual responses at .5 hours per response
(6) 10,000 annual burden hours
(7) Not applicable under 3504(h)
(1) Waiver of Rights, Privileges, Exemptions and Immunities
(2) I–508. Immigration and Naturalization Service
(3) On occasion
(4) Individuals or households. The I–508 information is used to determine eligibility of an alien applicant to retain status of an alien lawfully admitted to the United States for permanent residence.
(5) 1,800 annual responses at .083 hours per response
(6) 150 annual burden hours
(7) Not applicable under 3504(h)
(1) Application of Waiver of Grounds of Excludability
(2) I–601. Immigration and Naturalization Service
(3) On occasion
(4) Individuals or households. The I–601 information is used to determine eligibility of an alien applicant for a waiver of excludability from the United States.
(5) 3,000 annual responses at .5 hours per response
(6) 1,500 annual burden hours
(7) Not applicable under 3504(h)
(1) Application to Preserve Residence for Naturalization
(2) N–470. Immigration and Naturalization Service
(3) On occasion
(4) Individuals or households. The N–470 information is used to determine whether an alien who intends to be absent from the United States for a period of a year or more is eligible to preserve residence for naturalization purposes.
(5) 1,000 annual responses at .25 hours per response
(6) 250 annual burden hours
(7) Not applicable under 3504(h)
(1) Assurance by a United States Sponsor in Behalf of an Applicant for Refugee Status
(2) I–591. Immigration and Naturalization Service
(3) On occasion
(4) Individuals or households. The I–591 information is used by a United States sponsor in behalf of a refugee as an acceptable sponsorship agreement and guarantee of transportation in order to be approved for refugee status.
(5) 5,000 annual responses at .332 hours per response
(6) 1,660 annual burden hours
(7) Not applicable under 3504(h)
(1) Application for Advance Permission to Return to Unrelinquished Domicile
(2) I–191. Immigration and Naturalization Service
(3) On occasion
(4) Individuals or households. The I–191 information is used to determine whether the applicant is eligible for status after voluntarily proceeding abroad.
(5) 300 annual responses at .250 hours per response
(6) 75 annual burden hours
(7) Not applicable under 3504(h)

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) Data Relating to Beneficiary of a Private Bill
(2) G–79A. Immigration and Naturalization Service
(3) On occasion
(4) Individuals or households. The G–79A information is used to prepare a report to Congress concerning a private bill.
(5) 100 annual responses at 1.0 hour per response
(6) 100 annual burden hours
(7) Not applicable under 3504(h)

Public comment on these items is encouraged.

Don Wolfrey,

Department Clearance Officer, Department of Justice.

[FR Doc. 92–26703 Filed 11–3–92; 8:45 am]

BILLING CODE 4410–10–M

Office for Victims of Crime

Comprehensive Program Plan for Fiscal Year 1993

AGENCY: Office for Victims of Crime, Justice.

ACTION: Public announcement of the discretionary program plan for Fiscal Year 1993.

SUMMARY: The Office for Victims of Crime (OVC) publishes this announcement of its discretionary program plan for FY 1993. Discretionary grants are awarded by OVC to advance its advocacy role on behalf of crime victims.

ADDRESS: Office for Victims of Crime, Office of Justice Program, 633 Indiana Avenue NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Josephine Morrow, Special Projects Division, (202) 514–6444.

SUPPLEMENTARY INFORMATION:

Introduction

The Office for Victims of Crime (OVC) is the component of the Office of Justice Programs within the U.S. Department of Justice that serves as the Federal focal point for improving the treatment of crime victims and ensuring that the criminal justice system recognizes the legitimate rights and interests of innocent victims. In addition to its role as a national victims advocate, OVC's program activities include victim assistance and compensation grants to the States, training and technical assistance, and the provision of emergency services to victims of Federal crimes. See 42 U.S.C.A. 10601–10605.

Discretionary grants are awarded by OVC to advance its advocacy role on behalf of crime victims. Specifically, FY 1993 grants will be awarded to offer training and technical assistance to victim service providers for topics in the field on the cutting edge. Training and technical assistance projects will also be funded to improve assistance rendered by the criminal justice system and allied professionals. OVC will continue its efforts to establish and improve assistance programs in Indian country and will continue funding other assistance programs to address the specific needs of victims of Federal crimes. Many of OVC's fiscal year 1993 programs are oriented toward advancing the Weed and Seed Initiative at designated sites.

If funding and other resources becomes available, OVC intends to fund the programs described below up to the amounts noted. Additional funding may become available and applied to these or other programs.

Program Descriptions

Continuation Programs

Investigation and Prosecution of Child Abuse

$1,500,000

This program will be implemented by the current OVC grant recipient, the American Prosecutors Research Institute's (APRI) National Center for the Prosecution of Child Abuse (Center). No additional applications will be solicited in FY 1993.

The purpose of this program is the continued provision of publication services, training, and technical assistance to professionals involved in the prosecution of child abuse at the State, local, and Federal levels. The Center's staff will attend conferences and workshops nationwide to provide training in techniques for the effective prosecution of child abuse. In addition

to its other publication services, the Center will disseminate the second edition of its "Investigation and Prosecution of Child Abuse" manual, as well as a supplement adapted for Federal prosecutors. APRI's Center serves as an information clearinghouse for prosecutors, social workers, therapists, law enforcement personnel, and clinicians involved in the prosecution of child abuse.

Training and Technical Assistance for Law Enforcement (Sexual Assault Victims)

$100,000

This training and technical assistance program will be implemented by the current OVC grant recipient, the National Victim Center (NVC), in cooperation with the American Prosecutors Research Institute. Preference may be given to Weed and Seed sites requesting services. No additional applications will be solicited in FY 1993.

The purpose of this program is to disseminate a multidisciplinary protocol guidebook to law enforcement, criminal justice, and medical professionals who interact with sexual assault victims at Weed and Seed sites. An effective multidisciplinary approach to sexual assault victims minimizes secondary trauma experienced by these victims and promotes their understanding of the importance of the criminal justice process. Through the continuation award, faculty will offer hands-on technical assistance to selected jurisdictions that wish to adopt multidisciplinary protocol and develop community sexual assault response teams. The protocol manual and a training videotape will be disseminated to interested professionals in Weed and Seed communities and other locations.

Offender Supervision and Victim Restitution Program

$150,000

This training and technical assistance program will be implemented by the current OVC grant recipient, the American Probation and Parole Association and Council of State Governments. Preference may be given to Weed and Seed sites requesting services and will be implemented by the current grantee. No additional applications will be solicited in FY 1993.

The goal of this effort is to improve the response of probation and parole officers to the needs and rights of crime victims, through the presentation of a refined training and technical assistance package at Weed and Seed sites. Specifically, it is designed to help community correction officers notify victims of changes in the status of offenders, efficiently collect and disburse restitution payments, prevent victim intimidation or harassment by prisoners, and ensure victims an opportunity to submit victim impact statements. During FY 1992, the grantee provided intensive training to four States with expressed commitments to implement victim programs within their community corrections programs. Representatives from community correction agencies in six additional States participated in the training events. A continuation of the grant will allow the grantee to address an overwhelming State demand for intensive training and follow-on technical assistance.

Civil Legal Remedies Against Perpetrators

$50,000

This training technical assistance program will be implemented by the current OVC grant recipient, the National Victim Center (NVC). The course curriculum instructs victim service providers on ways to work with civil attorneys to address their victims' financial injuries through the civil court system. This viable method of financial recovery is being promoted for the first time in the victim services community through regional training events.

The purpose of the initial FY 1990 grant was to create a manual to train non-lawyer victim service providers and practitioners to assist victims in understanding their legal rights and remedies against perpetrators, and determining how and when to attain qualified legal assistance in appropriate cases. During the FY 1991 continuation phase, NVC devised and pilot-tested a curriculum, enlisted trainers, and presented the substance of the manual of four regional trainings. During the third year of the program's continuation, NVC will continue to disseminate the training manual and other materials to the field, and will conduct two to three additional training conferences in selected regions.

Corrections-Based Victim Assistance Program

$150,000

This program will be implemented by the current grant recipient, the National Victim Center (NVC), in cooperation with the National Organization for Victim Assistance (NOVA), the California Department of Corrections, the California Youth Authority, and the American Correctional Association. Preference may be given to Weed and Seed sites requesting services. No additional applications will be solicited by FY 1993.

The goal of this program is to provide training and technical assistance to institutional corrections agencies and paroling authorities to improve and expand existing services and develop new services for victims. Specifically, it provides training in implementing an educational curriculum for offenders on the impact of crime of victims, and training for agency officials in providing victim assistance services to correctional staff victimized on the job. It also helps these agencies to create or improve procedures for notifying victims of changes in the status of perpetrators, collecting and disbursing restitution payments, and preventing victim intimidation or harassment by prisoners.

During the last year, the grantee has provided training and technical assistance to five States with expressed commitments to implement victim programs within their correctional agencies. A continuation of the grant will allow the grantee to address the overwhelming demand for intensive training in selected additional States and to provide limited technical assistance to other State agencies requesting assistance.

The Spiritual Dimension of Victim Services

$75,000

This program will be implemented by the current OVC grant recipient, the Spiritual Dimension in Victim Services. Preference may be given to Weed and Seed sites requesting services. No additional applications will be solicited in FY 1993.

The purpose of this program is to make training and technical assistance products developed under a previous grant available to clergy. A high percentage of traumatized crime victims first seek assistance from clergy, rather than from other service or law enforcement professionals. This program will also fund multiple training events for clergy of all denominations on indicators of child abuse and neglect, the operation of the child protection system, domestic violence, and issues surrounding the trauma of rape and other forms of assault. Training may take place at designated Weed and Seed target communities, areas where clergy are likely to counsel a high number of victims of crime.

National Judicial College

$30,000

This training and technical assistance program will be implemented by the current OVC grant recipient, the National Judicial College. Preference may be given to Weed and Seed sites requesting services. No additional applications will be solicited in FY 1993.

The purpose of the program is to train State and local trial judges in effective ways of responding to crime victims. The initial award resulted in the development and pilot testing of a curriculum that sensitizes judges to victim needs and informs them of victim rights. A continuation award will provide the funds necessary to present the refined products where there are a high number of criminal case turnovers and where judges interact with numerous victims.

Technical Assistance and Training: Empowering Survivors of Homicide

$15,000

This program will be implemented by the current OVC grant recipient, Parents of Murdered Children (POMC), a national, all volunteer, self-help organization that provides support and advocacy to individuals who have survived the homicide of a family member or loved one.

The purpose of this program is to meet the demand for support and information posed by increasing numbers of survivors of homicide victims. POMC will distribute approximately 10,000 copies of the booklet, "Path through the Criminal Justice System," and will convene an in-service training session designed to help POMC leaders and contact people to provide technical assistance in starting new POMC chapters and to ensure the consistency of POMC services to survivors nationwide.

Training and Technical Assistance for Victims of Drug-Related Crime

$200,000

This program will be implemented by the current grant recipient, the National Organization for Victim Assistance (NOVA). This program is specifically aimed at Weed and Seed sites. No additional applications will be solicited in FY 1993.

The purpose of this program is to make training and technical assistance available to service providers assisting victims of drug related crime, children grieving the violent death of a loved one through crime victimization, and adult homicide survivors residing in public housing and other high crime environments. This continuation award will bring NOVA's crisis intervention experience, as well as training and technical assistance products developed under its "Drug-Related Crime" grant, directly to public housing service providers. (NOVA, the recipient of an OVC FY 1991 "Hispanic Victims" training and technical assistance grant, will also bring relevant experience on the unique needs of Hispanic victims to this continuation program.) Through this program, service providers within Weed and Seed public housing sites will benefit from the assistance of a nationally recognized victims advocacy and training organization.

Assistance to Victims of Federal Crime in Indian Country

$600,000

This program will fund continuation grants for 15 states (Arizona, Idaho, Kansas, Michigan, Minnesota, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming) and 43 tribal subgrantee victim assistance programs which were first funded in FY 1989–90. Additional funding will maintain the current level of victim services while programs identify new resources for continued funding.

The Attorney General's recent report, "Combating Violent Crime: 24 Recommendations to Strengthen Criminal Justice," recommends providing victims with assistance through victim-witness coordinators and notifying victims of the status of criminal justice proceedings. This program is responsive to these recommendations of the Attorney General. It funds staff positions and supports volunteers services. Thirty-five of the programs provide criminal justice support and advocacy. Over 6,000 victims of Federal crimes were provided services as a result of these programs in FY 1991.

Emergency Assistance for Victims of Federal Crimes

$100,000

Through this program, OVC provides funding for services that meet the needs of victims of Federal crime when assistance that is essential to a victim's recovery cannot be obtained from any other source. Requests for direct services such as emergency shelter, crisis intervention, and counseling are submitted by Federal victim-witness coordinators to OVC. Through the continuation of this program, funds may also be made available for U.S. Attorneys in Weed and Seed sites to assist victims of Federal crime in emergency situations.

Children's Justice Act Discretionary Grant Program for Native Americans (CJA)

$370,000

The Victims of Crime Act (VOCA) specifies that grants shall be made to assist Native American Tribes in improving the handling, investigation, and prosecution of child abuse cases, particularly child sexual abuse cases. The goal of the grant program is to bring about systematic improvement in the overall response of the criminal justice system to child abuse on Indian reservations so that secondary trauma to child victims is minimized.

The purpose of this continuation program is to support and sustain successful programs established under the CJA program in FY 1992.

Under CJA grant efforts, tribal investigative and victim assistance staff members coordinate the management of child victim cases with U.S. Attorneys' Offices in Federal criminal justice proceedings. As a result, prosecutions and convictions have increased in jurisdictions in which CJA grants have been funded.

Training and Technical Assistance for Federal Victim Witness Coordinators

$120,000

This program will be implemented by the current OVC grant recipient, the National Victim Center (NVC). Preference may be given to Weed and Seed sites requesting services. No additional applications will be solicited in FY 1993.

The 1990 Crime Control Act expanded Federal responsibility for assisting victims and witnesses who participate in the federal criminal justice system. The Act includes a Federal Crime Victims' Bill of Rights and amends the United States criminal code to ensure protection of children's rights in Federal criminal justice system proceedings. As a result, Federal prosecutors are expanding their victim-witness programs. There are currently 105 Federal victim-witness coordinators who provide services to victims of Federal crime. This program will provide basic and specialized training to Federal victim-witness coordinators to address their increased responsibility to victims and witnesses under the Act.

NVC will develop a victim assistance resource manual for Federal victim-witness coordinators. The manual will include general victim assistance practices, as well as specific practices

for assisting victims of violent crime, white collar crime, and fraud, and may also address the needs of crime victims in Weed and Seed sites, such as victims residing in drug-infested, violent neighborhoods. Although the training and resource manual will be offered to all Federal victim-witness coordinators, preference may be given to Weed and Seed sites requesting additional training materials and consultation.

Investigating and Handling Child Sexual Abuse Cases

$40,000

This program will be implemented by the current OVC grant recipient, the National Children's Advocacy Center. No additional applications will be solicited in FY 1993.

The purpose of this program initiative is to help provide support for specialized training for Federal criminal justice professionals at the annual "National Symposium on Child Sexual Abuse." A Federal Training Day preceding the symposium and a separate training curriculum during the symposium will be developed to address the specific concerns of Federal criminal justice professionals.

Training and Technical Assistance for Federal Criminal Justice Professionals

$913,000

In order to continue efforts to improve the response of the Federal criminal justice system to the needs and rights of crime victims, OVC will enter into reimbursable and Interagency Agreements with the following Federal entities: the Executive Office for United States Attorneys (EOUSA), the Federal Bureau of Investigation (FBI), the Federal Law Enforcement Training Center (FLETC), the U.S. Marshals Service, the Drug Enforcement Administration (DEA), Department of Defense (DOD), DOJ's Criminal Division, and DOJ's Child Exploitation and Obscenity Section (CEOS).

This OVC initiative will help provide support for training and technical assistance programs for Federal victim-witness coordinators, prosecutors, law enforcement officers, judges, and others. Preference may be given to Weed and Seed sites requesting services. Activities will include: 1) Reimbursement for travel and per diem expenses of selected Federal criminal justice personnel for attendance at OVC approved or sponsored training sessions on victim and witness assistance; 2) reimbursement to Federal Districts for the provision of specialized training to ensure compliance with Federal crime victims legislation such as the Victim and Witness Protection Act, the Victims Rights and Restitution Act, and the Victims of Child Abuse Act; 3) provision of victim-witness assistance training for Federal law enforcement officers as part of basic and advanced training at Federal training academies, regional training sessions, and "train-the-trainer" sessions; 4) expansion of victim-witness assistance programs within the FBI, DEA, U.S. Marshals service, and DOD; 5) development and printing of informational and training materials designed to assist or improve the Federal Criminal Justice System's response to victims of Federal crime; 6) presentation of a regional training conference for Federal criminal justice personnel on bias crime; 7) development of a training program for military judges that focuses on Federal law, victims' rights, victim impact statements, restitution, and the treatment of child abuse witnesses in military courts; and 8) establishment of an on-call Emergency Response Team (ERT) to provide crisis intervention in multi-victim child abuse cases. The ERT would be available for consultation, technical assistance, and support to Federal Districts requesting assistance and support.

Training and Technical Assistance for Native American Children's Justice Act Grantees

$100,000

This program will be implemented by the current OVC grant recipient, the National Indian Justice Center (NIJC). No additional applications will be solicited in FY 1993. The purpose of this program is to provide comprehensive training and technical assistance to Indian tribes and organizations that have received or will receive a grant from the Children's Justice Act (CJA) Discretionary Grant Program for Native Americans. OVC seeks to ensure that all tribal programs receiving CJA grants are provided the training and technical assistance necessary to implement their programs successfully. The grantee will develop a comprehensive plan for delivery of training and technical assistance, and provide on-site customized training and technical assistance.

Training and Technical Assistance for Victims of Federal Crimes Indian Country Discretionary Grant Subgrantees

$100,000

This program will be implemented by the current OVC grant recipient, the National Indian Justice Center (NIJC). No additional applications will be solicited in FY 1993.

The purpose of this program is to provide focused, short-term, on-site training and technical assistance or peer consultation to Native American Indian tribes or Native American organizations that have received funds under the Assistance to Victims of Federal Crime in Indian Country Discretionary Grant Program. The training and technical assistance program will improve victim assistance services available to victims of Federal crime.

New Programs

National Victim Resource Center

$200,000

Since its inception, OVC has operated a clearinghouse for crime victim information. In FY 1986, OVC's clearinghouse, the National Victim Resource Center (NVRC), joined similar clearinghouses under the umbrella of the National Criminal Justice Reference Service (NCJRS), which is sponsored by the National Institute of Justice.

In FY 1993, OVC will assume a greater role in guiding the activities and focus of NVRC than it has during the past six years. OVC staff will assume direct responsibility for publications and conference management. In turn, the clearinghouse functions conducted by the contractor will include maintaining a public information service (involving a toll-free telephone line and an up-to-date database of reference materials), and the storage and shipment of documents. This program is funded with assistance from Bureau of Justice Assistance.

Victim Conference Support Initiative

$75,000

The growth of the victims movement and increasingly specialized areas of expertise involved in responding to victims of crime have led to a profound, ongoing need for both general and specific training. To meet this need, OVC will offer mini-grants to support the convening of State victim conferences. The goals of the program include: 1) The provision of in-depth, skills-oriented training on basic victim services for direct service providers; 2) training that is responsive to the specific needs of each State, taking into consideration types of crime, gaps in services and knowledge, lack of coordination among service providers, and State legislative mandates; and, 3) a multidisciplinary approach which incorporates training for personnel from criminal justice, victim service, medical, and mental health agencies.

Under the grant program, States may select workshop topics from a menu of specific training topics supplied by OVC. OVC may award grants of up to $7500 each to 10 grant recipients, with up to 10% of each award allotted to the development of conference materials; up to 15% allotted for the purchase of conference space; and the remainder of the funds allotted for the purchase of workshop presentations from the menu of specific training topics or from other sources with OVC approval.

Assistance to Victims of Federal Crime in Indian Country

$250,000

The purpose of this OVC program is to establish victim assistance programs on reservations or in remote areas of Indian country where there are no existing or limited services for victims of crime. Competitive applications will be solicited from the following eligible States: Alabama, Colorado, Florida, Iowa, Louisiana, Mississippi, Nebraska, North Carolina, and Texas.

In FY 1988, OVC initiated a program to make grants to State victim assistance programs for the purpose of awarding subgrants to Indian tribes or tribal organizations. This initiative has resulted in the expansion of victim assistance programs to tribal communities in 15 different States. OVC plans to extend this program so that other tribes under Federal jurisdiction can also establish victim assistance services in their communities.

The Attorney General's recent report, "Combating Violent Crime: 24 Recommendations to Strengthen Criminal Justice," advocates assisting crime victims through victim-witness coordinators and notifying victims of the status of criminal justice proceedings. This program will support these recommendations by providing funding for victim assistance providers in areas where no services have been available.

Children's Justice Act Discretionary Grant Program for Native Americans

$501,238

The purpose of this program is to improve the investigation and prosecution of cases of serious child abuse, especially child sexual abuse, on Indian reservations. Applications will be solicited directly from eligible Indian tribes.

The primary goal of the program is to bring about systemic improvement in the overall response to child abuse, especially child sexual abuse, on Indian reservations and to minimize secondary trauma to child victims involved in criminal justice proceedings.

Projects funded under this initiative would be designed to: 1) Develop formal protocols among all parties involved in the investigation, referral, prosecution, and treatment of child abuse cases; 2) improve tribal codes and procedures for responding to a report of child abuse and sexual abuse; 3) develop special units to prosecute cases in tribal courts, interview child victims, and provide court advocacy and case management; 4) establish or expand multidisciplinary teams for the investigation and referral of child abuse cases; and 5) provide specialized training for investigators, multidisciplinary teams, and judicial personnel.

Training for Tribal Judicial Professionals

$100,000

This program is under development and may or may not be funded during FY 1993. The purpose of this program is to provide specialized in-depth nationwide training and technical assistance for tribal criminal justice and judicial professionals to improve the criminal justice and judicial case handling of child abuse cases, especially sexual abuse cases, in a manner that limits additional trauma to Native American child victims. The involvement of tribal court personnel is critical to assure that the needs, rights, and abilities of child victims and witnesses in court are acknowledged and protected.

This program will also introduce strategies to heighten awareness among Native American criminal justice and judicial personnel to the unique needs of abused children in criminal court proceedings. A training manual will be developed, and three regional training conferences will focus on case presentation methods that best accommodate the needs of child sexual abuse victims within the tribal court setting.

Fifth National "Strengthening Indian Nations: Justice for Victims of Crime" Conference

$155,000

Since FY 1988, OVC has provided funds to support more than 50 Native American victim assistance programs in 15 States. As a result, shelters, counseling centers, and crisis intervention programs have been established in areas of Indian country where such services were previously unavailable. In addition, 20 Native American tribes have received grants to develop programs that improve the investigation and prosecution of child physical and sexual abuse cases under OVC's Children's Justice Act for Native Americans (CJA) Program.

This grant will provide specific skills training to victim assistance professionals assisting crime victims in Indian country. The conference will bring together key groups, including victim advocates, criminal justice and law enforcement personnel, and social and mental health service providers to address the unique challenges in establishing effective services for victims of violent crime in Indian Country. A major purpose of the conference is to provide training for OVC grantees and subgrantees who are funded through the CJA Program, the Assistance for Victims of Federal Crime in Indian Country Grant Program, and the State Victim Assistance and Compensation Grant Programs.

Multi-Jurisdictional Model For Handling Cases of Child Pornography and Juvenile Prostitution

$225,000

OVC and the Office of Juvenile Justice and Delinquency Prevention are developing this program, which may or may not be funded in 1993. This would be a joint project involving the Office of Justice Programs, the Federal Bureau of Investigation, the participating U.S. Attorney, and the Criminal Division of DOJ. The purpose of this program is to develop and implement or expand an existing multi-jurisdictional task force to target sexual exploitation of juveniles in a pilot community. This task force, composed of prosecutors and law enforcement agencies at the local, State, and Federal levels, would investigate and prosecute perpetrators of juvenile prostitution and child pornography operations, including those who traffic in illegal drugs and participate in organized crime. The task force would also coordinate law enforcement, social, child protective, and medical services to facilitate the successful prosecutions of perpetrators and protect and assist juvenile victims involved in criminal justice proceedings. Other program components would include services to aid child victims in recovering from victimization and redirecting their lives, as well as a public awareness effort to highlight the harmful effects of child pornography and prostitution.

Brenda G. Meister,

Acting Director, Office for Victims of Crime.

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BILLING CODE 4410-18-M

Bureau of Justice Statistics

Statistical Programs for Fiscal Year 1993

AGENCY: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

ACTION: Public announcement of the Fiscal Year (FY) 1993 program plan for the Bureau of Justice Statistics (BJS).

SUMMARY: The Bureau of Justice Statistics is publishing this announcement of its Fiscal Year 1993 programs. This is not a solicitation for individual project applications. All competitive projects for FY 1993 will be published in a single **Federal Register** announcement. Generally, competitive funding from BJS is awarded to single eligible State agencies to assist BJS in its collection and analysis functions.

ADDRESSES: Bureau of Justice Statistics, Office of Justice Programs, room 1142, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Steven D. Dillingham, Ph.D., Director, Bureau of Justice Statistics, at the above address. Telephone (202) 307–0765.

SUPPLEMENTARY INFORMATION: The following supplemental information is provided:

Introduction

The Bureau of Justice Statistics (BJS) is the premier criminal justice statistical agency in the world. As the statistical arm of the Department of Justice, BJS is responsible for the collection, analysis, publication, and dissemination of statistical information on crime, criminal offenders, victims of crime, and the operation of justice systems at all levels of government. BJS data are used by the Administration, Congress, the judiciary, State and local governments, criminal justice practitioners, academic and research institutions, the media, and the general public. This year, priority will be given to statistical and informational needs of "Weed and Seed" sites whenever appropriate.

BJS maintains more than two dozen major data collection series and publishes more than 50 reports annually. Core statistical efforts include annual releases regarding criminal victimization, populations housed in prisons and jails or under supervision by parole and probation agencies, Federal criminal case processing and offenders, and persons under sentence of death. Periodic data series are undertaken to provide statistical information on felony convictions, pretrial release practices, the composition and background of correctional populations, and the administration of law enforcement agencies, prosecutors' offices, and correctional facilities. BJS also issues special reports on topical criminal justice issues.

To assure widespread distribution and use of its statistical data, BJS maintains the Bureau of Justice Statistics Clearinghouse, the Drugs and Crime Data Center and Clearinghouse, the National Clearinghouse of Criminal Justice Information Systems, and the National Archive of Criminal Justice Data at the University of Michigan, as well as co-sponsors the National Criminal Justice Reference Service. BJS provides technical and financial assistance to State and local governments to promote the collection and analysis of criminal justice statistics. BJS continues to administer the Attorney General's Criminal History Record Improvement (CHRI) program which provides support to all fifty States, the District of Columbia, and two territories to make systemic improvements in the quality and timeliness of State criminal history record information, with particular emphasis on improving disposition reporting to the State's central repository. Also, BJS is active in various special projects, including the Incident-Based Reporting Utilization Demonstration and the BJS/Princeton University Working Group on Criminal Justice Performance Measures.

BJS is conducting activities that support Operation Weed and Seed. BJS has revised selected data collection programs to obtain the kinds of information important to major urban anti-crime initiatives and to provide systematic measures of achievement. Successful initiatives to combat urban crime require detailed understanding of victims, criminal offenders, and surrounding circumstances. BJS statistical series allow in-depth descriptions and analyses of these elements of urban crime. Through the Bureau of Justice Statistics Clearinghouse and the Drugs and Crime Data Center and Clearinghouse, BJS actively disseminates criminal justice statistical data to law enforcement agencies, community groups, social service agencies, and relevant public and private organizations in the Weed and Seed sites. BJS will continue to highlight Operation Weed and Seed at relevant conferences and professional meetings. BJS strongly encourages the State Statistical Analysis Centers to support activities in Operation Weed and Seed sites within their States.

FY 1993 Statistical Programs

The National Crime Victimization Survey Anticipated Funding Level: $10,746,000

The National Crime Victimization Survey (NCVS) is the second largest ongoing household survey undertaken by the Federal Government and is the only major national indicator of criminal victimization in American society. BJS is currently implementing Computer-Assisted Telephone Interviewing (CATI) in which the interviewer enters data directly into the computer, resulting in more accurate and timely data. Presently, CATI is used in about 16% of the NCVS sample; at full implementation, it will be used in about 50% of the sample. BJS, in conjunction with the Census Bureau, is initiating efforts to implement Computer-Assisted Personal Interviewing (CAPI) which will allow interviewers to enter data into the computer while conducting personal interviews in the field. Publications expected to be released in FY 1993 using data from the NCVS include: Criminal Victimization, 1992; Crime and the Nation's Households, 1992; Criminal Victimization in the U.S., 1991; and Trends in Criminal Victimization in the U.S. NCVS will also analyze and publish reports on the following topics: Self-protective measures, elderly victims, police response time, rape and domestic violence, economic cost of crime, and motor vehicle theft. This program is conducted under a reimbursable agreement which governs the work to be undertaken by the Census Bureau for BJS.

Incident-Based Reporting System Program Anticipated Funding Level: $600,000

In FY 1993, BJS will continue its three-part project designed to document the benefits of national and local incident-based reporting systems to law enforcement agencies. First, BJS analysts are examining National Incident-Based Reporting System (NIBRS) data supplied by the Federal Bureau of Investigation (FBI). Data from Alabama, North Dakota, and South Carolina are being reviewed. Current plans call for an analysis of a violent crime topic to be completed in early 1993. In the second part of this activity, BJS will obtain incident-based crime data from approximately 20 police departments in cities with populations of 250,000 or more, assess their completeness and comparability, and conduct analyses of specific topics related to violent crime. Priority will be given to Operation Weed and Seed sites.

The ultimate goal is to produce incident-based reports on critical crime topics. The third part of this project will document the utilization of incident-based data in several selected cities. Also, BJS plans to work with a major city in selected States currently submitting NIBRS data to the FBI to further develop NIBRS utilization.

Law Enforcement Management and Administrative Statistics Anticipated Funding Level: $275,000

The Law Enforcement Management and Administrative Statistics (LEMAS) program provides nationally representative data on law enforcement agencies in the United States. Information gathered includes the number and characteristics of personnel, salary levels, education and training requirements, expenditures, number and types of vehicles, and types of special units. In early FY 1993, planning activities of the 1993 LEMAS survey, including design, testing of additional questions, and sample selection, will be conducted. In July 1993, the survey will be administered to the sample agencies, with data collection, processing, and editing activities to follow. This program is conducted under a reimbursable agreement which governs the work to be undertaken by the Census Bureau for BJS.

Drugs and Crime Data Center and Clearinghouse Anticipated Funding Level: $300,000

The Drugs and Crime Data Center and Clearinghouse provides a centralized source of statistical and research information on drugs and crime. The Drugs and Crime Data Center and Clearinghouse supports two components: 1) data user services; and 2) data analyses and evaluation activities. The Clearinghouse responds to information requests on drugs and crime from the Administration, including the Office of the National Drug Control Strategy (ONDCP) in the Executive Office of the President, the Congress, State and local governments, the media, university and academic researchers, the private sector, and the general public. The Data Center component continues its efforts to increase knowledge and awareness about drugs and crime by conducting secondary analyses of existing but under-utilized data bases and assessing the quality and utility of existing data surveys and series for public policy formulation. As one of its highest priorities, the Data Center and Clearinghouse will actively disseminate criminal justice statistical data to justice and social service agencies, community organizations, and relevant public and private organizations in Operation Weed and Seed sites. In FY 1993, the Data Center and Clearinghouse will continue its various analytic activities and information products, including: Drugs and Crime Facts 1992; State Drug Resources: 1993 National Directory; "Fact Sheets;" topical bibliographies; special reports on various aspects of drugs and crime; and assessments of existing data surveys and series for quality and utility to public policy formulation. This program will be implemented by the current grantee.

National Corrections Statistics Anticipated Funding Level: $2,200,000

The corrections statistics program consists of a number of separate data collection and analysis efforts designed to obtain detailed information on offenders under correctional care, custody, or control and the agencies and facilities responsible for administering the supervision of offenders. Statistical series obtain information on Federal State, and local correctional populations including those in confinement, as well as those subject to intermediate sanctions or conditional supervision in the community. The data collected and analyzed under the corrections statistics program will result in numerous publications and press releases during the fiscal year, including Capital Punishment, 1991; Jail Inmates, 1992; Prisoners in 1992; and Correctional Populations in the United States, 1991. Data obtained from the 1991 Quinquennial Survey of State Prison Inmates are currently being analyzed with published findings expected by late 1992. Data collection efforts of the first BJS-sponsored nationwide census of probation and parole agencies will be completed with data analyses being conducted throughout the fiscal year. The census is designed to collect detailed information including agency staffing and expenditures, caseload size and classification, and drug-testing and treatment for offenders under conditional supervision in the community, as well as for staff. BJS will initiate a pilot survey of adults on probation and parole within selected large jurisdictions nationwide. This program is conducted under a reimbursable agreement which governs the work to be undertaken by the Census Bureau for BJS.

National Judicial Reporting Program Anticipated Funding Level: $585,000

The National Judicial Reporting Program is the Nation's sole source of data on characteristics of persons convicted of felonies in State courts nationwide. Data are obtained from a nationally representative sample of 300 counties. Characteristics of these data include age, race, sex, conviction offense, type and length of sentence received, type of conviction, and judicial processing time. In FY 1993, BJS will analyze the 1990 data and publish the findings in several reports, including Felony Sentences in State Courts, 1990; National Judicial Reporting Program, 1990; and Trends in Felony Sentencing in State Courts, 1990. In addition, planning and development activities will commence for the 1992 Survey, to be administered in the summer of 1993. This program is conducted under a reimbursable agreement which governs the work to be undertaken by the Census Bureau for BJS.

National Prosecutor Survey Program Anticipated Funding Level: $10,000

The National Prosecutor Survey Program provides data on prosecutorial policies and practices including staff size, use of plea bargaining, sentencing guidelines, court organization, capacity, and workload from a nationally-representative sample of 290 chief prosecutors in State court systems. In FY 1993, BJS will prepare data files and analyze the 1992 Survey data. Reports presenting the findings will be prepared, including *National Prosecutors Survey, 1992.* This program is conducted under a reimbursable agreement which governs the work to be undertaken by the Census Bureau for BJS.

Criminal History Record Improvement Program Anticipated Funding Level: $1,944,637

The Attorney General's Criminal History Record Improvement (CHRI) Program is a collaborative intra-agency program managed by BJS and funded by the Bureau of Justice Assistance (BJA). BJS will continue administering this 3-year program, funding the $1,444,637 balance of the $27 million, as recommended by the Attorney General and reported to the Congress. The major purposes of the program are: (1) To make systemic improvements in the quality and timeliness of State criminal history records; (2) to identify convicted felons accurately; and (3) to achieve compliance with the BJS/FBI voluntary reporting standards. The Attorney General's decision of November 20, 1989, to improve the Nation's criminal history records has been universally accepted with all 50 States, the District of Columbia, and 2 territories receiving funding under the CHRI program. Awards will be granted to those States

which submitted applications during FY 1992.

As specified by Congress, an additional $500,000 will be dedicated to the development of state-wide criminal history records systems in two States, which have been identified. No further applications are being solicited.

State Statistical Analysis Network Anticipated Funding Level: $2,300,000

A primary objective and legislative mandate of BJS is to support States and local governments in the accurate and timely collection, aggregation, and analysis of State and local criminal justice data. BJS provides financial and technical assistance to support a national network of State Statistical Analysis Centers (SACs) which are State-level organizations devoted to the collection, analysis, and dissemination of criminal justice statistical information. BJS, with participation from the SACs, will continue to operate and enhance the "information sharing infrastructure project" which promotes the collection of common justice statistical data among the States. BJS will begin development of a mechanism to share data and information among the States and to access Federal and State data and information electronically. The information produced by SACs and their participation in various projects, such as the "infrastructure project", are critical to State and local law enforcement agencies and community organizations in their efforts to combat drugs and crime and useful for Operation Weed and Seed initiatives. BJS strongly encourages the SACs to support activities being conducted in Operation Weed and Seed sites within their States. This program will be implemented by the current grantees.

Statistical Initiatives for Improved Analysis Anticipated Funding Level: $477,000

BJS provides support to organizations for special activities of national significance (for example, the Justice Research and Statistics Association, comprised of State Statistical Analysis Centers and their directors). BJS anticipates conducting several ad hoc studies designed to improve statistical methodology, data analysis, and presentation in such areas as crime, criminal offenders, victims of crime, civil justice, and the justice system. Under this program, BJS maintains an updated listing of various State and local jurisdictions from which numerous survey samples are selected. Additional applications will be solicited in FY 1993 to implement new activities in this continuation program.

Offender-Based Transaction Statistics Program Anticipated Funding Level: $100,000

The Offender-Based Transaction Statistics (OBTS) program collects and analyzes data, tracing key decisions during the arrest, prosecution, and judicial decision of felony offenders within a State's criminal justice system. The State Statistical Analysis Centers play a key role in the collection of these data. This is an expanding program, with additional States participating in the data collection process as the quality and completeness of their criminal history records permit. In FY 1993, BJS anticipates receiving data on dispositions occurring in 1990. BJS will analyze the 1990 data and begin work on presenting the findings. Data collection and processing will be conducted by the current grantees.

Criminal Justice Expenditure and Employment Program Anticipated Funding Level: $145,000

BJS will collect, analyze, and publish extract data for the Criminal Justice Expenditure and Employment program which includes statistical data on the cost of operating the Nation's criminal justice systems. BJS will extract data from the Census Bureau's ongoing finance and employment survey series, producing general estimates of national expenditures and employment relating to major criminal justice activities. The last year for which complete and more detailed expenditure and employment data were collected and analyzed was 1990. This served as the basis for calculating variable passthrough data in distributing the formula funds of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program administered by the Bureau of Justice Assistance (BJA). This program is conducted under a reimbursable agreement which governs the work to be undertaken by the Census Bureau for BJS.

National Criminal Justice Statistical Compilations Anticipated Funding Level: $360,000

The Bureau of Justice Statistics Sourcebook of Criminal Justice Statistics, an annual publication, provides statistical data in a single volume on a full range of criminal justice topics, from victimization to corrections. Data are compiled from over 100 different sources including various Federal agencies and private organizations. The BJS Sourcebook is designed to make existing data more readily available to criminal justice practitioners, policymakers, researchers, the media, and others in need of criminal justice statistics. This program is under a reimbursable agreement between BJS and the State University of New York (SUNY) at Albany which governs the work to be undertaken by SUNY Albany for BJS.

Federal Justice Statistics Anticipated Funding Level: $850,000

BJS has developed and maintained a Federal integrated data base which links information from investigative agencies, the Executive Office of U.S. Attorneys, the Administrative Office of the U.S. Courts, and the Bureau of Prisons in order to understand the movement of cases and accused persons or offenders through the Federal criminal process. In addition to the publication of annual reports, such as Federal Criminal Case Processing, 1980–1991 and *Compendium of Federal Justice Statistics, 1990 and 1991*, activities during FY 1993 will include the analysis and preparation of reports describing Federal sentences and time served with an emphasis on the impact of the increasing number of cases being handled under the Federal Sentencing Guidelines. Also, a major study of Federal drug offenders will be conducted, resulting in a report of the findings. Emphasis will be placed on the Federal response to white collar offenses and a report will be prepared on that issue. A separate project will study the extent, nature, and success rate for Federal habeas corpus petitions filed by State prisoners. This information will be compared to data describing petitions filed under Section 1983. This program will be implemented by the current grantee.

Justice Information Policy Program Anticipated Funding Level: $425,000

The justice information policy program supports surveys, studies, conferences, and technical assistance on issues relating to criminal justice records. Primary emphasis has been focused on accuracy and completeness of records, limitations, on dissemination, commingling of juvenile and adult records, data auditing techniques, and the interstate exchange of records. During FY 1993, the second 50 State comprehensive survey of criminal history information systems will be conducted and a major report will be prepared describing the technology, policy, and legislative status of criminal history records. A national conference and workshop are planned to address the format of criminal records. An expanded effort related to linkage of juvenile and adult criminal records may

also be undertaken. This program will be implemented by the current grantees.

International Statistics Anticipated Funding Level: $25,000

In its effort to make international criminal justice statistics more accessible within the United States, the International Statistics Program will continue to support a number of activities. Foreign universities and research centers are encouraged to supply data tapes of crime statistics and criminal justice studies conducted in other countries to the Criminal Justice Archive at the University of Michigan. A program which collects annual statistical reports on crime and justice from statistical agencies in other countries will be maintained through the National Criminal Justice Reference Service (NCJRS). NCJRS provides translation of selected reports from non-English-speaking countries and disseminates these to American scholars and researchers. BJS supports the United Nations Criminal Justice Information Network which facilitates easy communication among criminal justice professionals and dissemination of criminal justice information and research findings around the world. BJS will prepare a reference book containing selected information on criminal justice systems in numerous countries. BJS will assist the Department in providing relevant international statistics. This program will be implemented by the current grantees.

Visiting Research Fellowship Program Anticipated Funding Level: $50,000

The Visiting Research Fellowship Program promotes criminal justice statistical research among the academic and professional criminal justice community to meet the specific needs of the Department of Justice and BJS. Visiting Fellows participate in a specifically designed research project of particular operational relevance to the national justice system or the international justice system. Systems development and statistical research projects that may be conducted by Fellows include those related to Department and Office of Justice Programs priorities. These priorities may include such topics as: violent and gang-related crime; "Operation Weed and Seed;" criminal justice information systems improvements; and civil justice reforms. The Fellowship Program offers criminal justice researchers an opportunity to have a significant impact on specific BJS projects as well as a chance to examine innovative approaches to the analysis and dissemination of BJS data.

Publication and Dissemination Anticipated Funding Level: $1,925,000

BJS reports its statistical findings in a variety of publications, including Bulletins, Special Reports, National Updates, tomes, user guides, and press releases.

BJS sends reports to persons on one or more of 11 subject-oriented mailing lists, updated annually. A variety of mechanisms and institutions are used by BJS to disseminate and promote utilization of data. Reports are distributed by the Bureau of Justice Statistics Clearinghouse, through the National Criminal Justice Reference Service (NCJRS). Both the BJS Clearinghouse and the Drugs and Crime Data Center and Clearinghouse maintain toll-free numbers for public inquiries. The clearinghouses will actively disseminate criminal justice information to justice and social service agencies, community organizations, and other relevant public and private organizations in the Operation Weed and Seed sties. In addition, the University of Michigan's Inter-University Consortium for Political and Social Research is the repository for all BJS Public-use data tapes. Finally, BJS supports the National Clearinghouse for Criminal Justice Information Systems (CJIS) which operates an automated index of more than 1,000 criminal justice information systems maintained by State and local governments throughout the Nation. As part of this program, the CJIS Clearinghouse operates an electronic bulletin board which promotes and facilitates the exchange of information among justice agencies and practitioners. The bulletin board features an electronic mail system, a variety of publications to read on-line or by downloading, and the ability to exchange software between users. This program will be implemented by the current recipients of funds.

Steven D. Dillingham,

Director, Bureau of Justice Statistics.

[FR Doc. 92-26686 Filed 11-3-92; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Oregon State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under Section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of subpart D to part 1952 containing the decision.

The Oregon plan provides for adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required. The Oregon plan also provides for the adoption of Federal standards as State standards by reference.

On its own initiative, the State of Oregon has submitted by letter dated October 24, 1991, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a repeal of three Oregon codes: Division 76, Textiles; Division 77, Bakery Equipment; and Division 78, Laundry Machinery and Operations; and the adoption by reference of Federal standards 29 CFR 1910.262, Textiles; 29 CFR 1910.263, Bakery Equipment; and 29 CFR 1910.264, Laundry Machinery and Operations. These standards originally received Federal Register approval (40 FR 36817) on August 22, 1975. In addition, the State also adopted by reference Federal standards 29 CFR 1910.274, Sources of Standards; and 29 CFR 1910.275, Standards Organizations. The State's rules pertaining to Textiles, Bakery Equipment, Laundry Machinery and Operations, Sources of Standards and Standards Organizations were adopted by reference on October 10, 1991, and became effective on November 10, 1991, pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under OR-OSHA Administrative Order 14-1991. On August 16, 1991, the State mailed the Notice of Proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 431-01-000 and to those on the Department's distribution list as their

interest appeared. No requests for a public hearing were received.

In response to Federal standards changes, the State has submitted by letter dated February 28, 1991, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standard corrections comparable to corrections to 29 CFR 1910.147, Control of Hazardous Energy Sources (Lockout/Tagout), as published in the **Federal Register** (55 FR 38685) on September 20, 1991. The State's rules were adopted by reference and became effective on March 15, 1991, under OR-OSHA Administrative Order 4-1991. The standard corrections were adopted pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335. On February 1, 1991, the State mailed a Notice of Proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 431-01-000 and to those on the Department's distribution list as their interest appeared. No requests for a public hearing were received.

In response to Federal standards changes, the State has submitted by letter dated May 1, 1991, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to 29 CFR 1910.1000 (nitroglycerin), as published in the **Federal Register** on November 8, 1990 (55 FR 46948). The State's rules pertaining to the Federal stay of provisions for nitroglycerin, contained in OAR 437-02-360(1), were adopted by reference and became effective on April 25, 1991, pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under OR-OSHA Administrative Order 7-1991. On March 28, 1991, the State mailed the Notice of Proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 436-01-000, and to those on the Department's distribution list as their interest appeared. No requests for a public hearing were received.

In response to Federal standards changes, the State has submitted by letter dated May 10, 1990, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment comparable to 29 CFR 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories, as published in the **Federal Register** (55 FR 3300) on January 31, 1990 and corrected (55 FR 7967) on March 6, 1990. The State's rules, contained in OAR 437-02-360(30), were adopted by reference on May 8, 1990, and became effective on August 8, 1990, pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under OR-OSHA Administrative Order 9-1990. On April 10, 1990, the State mailed the Notice of Proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 431-01-000, and to those on the Department's distribution list as their interest appeared. No requests for a public hearing were received. Oregon delayed its effective dates for the standard and for the written Chemical Hygiene Plan beyond the Federal effective dates because several State agencies which operate laboratories could not order, receive and test new safety equipment before the start of the new State fiscal year beginning July 1, 1990.

In response to Federal standards changes, the State has submitted by letter dated May 14, 1985, from William J. Brown, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, an amendment to State rules comparable to 29 CFR 1910.243(e), Guarding of Portable Powered Tools (amended), as published in the **Federal Register** (50 FR 4648) on February 1, 1985. The State's original standard at OAR 437, Division 6, received **Federal Register** approval at 40 FR 36818 on August 22, 1975. The State's original standard was subsequently recodified as OAR 437, Division 65. The recodification received **Federal Register** approval at 56 FR 19383 on April 26, 1991. On March 29, 1985, the Notice of Proposed Amendment of Rules was mailed to those on the Workers' Compensation Department mailing list established pursuant to OAR 436-90-505 and to those on the Department's distribution list as their interest appeared. Both actions failed to elicit a request for hearing nor were written comments received. The State's amendment was adopted on April 26, 1985, with an effective date of May 1, 1985, under Oregon WCD Administrative Order, Safety 6-1985. Oregon's amendment is identical to the Federal except for one minor editorial change.

In response to a Federal standard revision, the State has submitted by letter dated February 6, 1991, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910, subpart S, Electrical Standards, as published in the Federal **Register** (46 FR 4056) on January 16, 1981, and subsequent corrections published in the **Federal Register** (46 FR 40183) on August 7, 1981. The State's previous adoption of the electrical standard and corrective amendment was promulgated as OAR 437, Division 67, and received **Federal Register** approval (49 FR 38379) on September 28, 1984. The State has repealed OAR 437, Division 67, and incorporated 29 CFR 1910 Subpart S, Electrical Standards, by reference as OAR 437-02, Subdivision S. Also adopted by reference was Subpart S, amended, Electrical Safety-Related Work Practices, as published in the **Federal Register** (55 FR 31984) on August 6, 1990, and subsequent corrections published in the **Federal Register** (L55 FR 46052) on November 1, 1990. On December 27, 1990, the Notice of Proposed Revision of Rules was mailed to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436-90-505 and to those on the Department's distribution list as their interest appeared. Both actions failed to elicit a request for hearing; however, two written comments were received which addressed a conflict between the proposed standard and the State's construction standard relating to overhead power lines. The State's amendment was adopted as OR-OSHA Administrative Order 2-1991 on February 4, 1991, with an effective date of April 1, 1991. The State has retained eight State-initiated electrical standards which were previously approved as part of the State's response to the 1971 OSHA electrical standard which appeared in the **Federal Register** (36 FR 10699) on May 29, 1971. The State's corresponding rules, OAR 437 Chapter 4, Electrical, received **Federal Register** approval (40 FR 2885) on January 16, 1975. The State-initiated rules that are being retained contain renumbering changes as follows:

Originally adopted as	Recodified as	Readopted as
OAR 437-4-6-1	OAR 437-67-430	OAR 437-02-321
OAR 437-4-6-2	OAR 437-67-435(1)	OAR 437-02-322(1)
OAR 437-4-6-3(c)	OAR 437-67-435(2)(c)	OAR 437-02-322(2)

Originally adopted as	Recodified as	Readopted as
OAR 437-4-6-3(d)	OAR 437-67-435(2)(d)	OAR 437-02-322(3)
OAR 437-4-6-5	OAR 437-67-435(4)	OAR 437-02-322(4)
OAR 437-4-6-6	OAR 437-67-440	OAR 437-02-323
OAR 437-4-6-7	OAR 437-67-445(1)	OAR 437-02-324(1)
OAR 437-4-6-8	OAR 437-67-445(2)	OAR 437-02-324(2)

The State has also incorporated a minor State-initiated rule, OAR 437-02-325, which alerts the employer to the State's Public Utility Commission's rules concerning Underground Installations. The State did not adopt 29 CFR 1910.333(c)(3)(ii)(A) through (C) as the Federal rules conflict with Oregon's previously approved more stringent rules on this subject in OAR 437-03, Construction. The State's more stringent rules received **Federal Register** approval (42 FR 62554) on December 13, 1977, as part of Oregon's response to Federal OSHA's Construction, which was published in the **Federal Register** (36 FR 7340) on April 17, 1971. The State's Electrical Rules for Construction were adopted as OAR 437, Chapter 35. The three more stringent rules that were retained (with renumbering changes) are as follows:

Originally adopted as	Recodified as	Readopted as
OAR 437-35-2-20	OAR 437-84-149	OAR 437-03-270
OAR 437-35-2-24	OAR 437-84-163	OAR 437-03-290
OAR 437-35-6-37	OAR 437-84-593	OAR 437-03-600

Oregon Revised Statutes (ORS) 654.022 requires compliance with all standards and OAR 437-03-005, Construction, Additional Applicability, defines the application of Construction rules to other Divisions in OAR 437. OAR 437-03-270 imposes voltage limitations on the use of rubber gloves. OAR 437-03-290 addresses protective insulatory equipment and the use of insulated protective equipment on devices in conjunction with rubber gloves, and OAR 437-03-600 prohibits live-line bare-hand work. All other provisions of 29 CFR 1910 Subpart S are incorporated by reference.

On its own initiative, the State has submitted by letter dated January 17, 1991, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a State standard amendment which revoked the State provision identical to 29 CFR 1910.177(a)(2), Servicing Multi-Piece and Single-Piece Rim Wheels, paragraph limiting scope application, as published in the **Federal Register** (53 FR 34737), on September 8, 1988. (Oregon's March 1, 1989 adoption by reference of the 1988 Federal standard was approved in the **Federal Register** at 54 FR 50452 on December 6, 1989.) The State has a longstanding policy of applying all Oregon Occupational Safety and Health rules to all employers. This revocation of the limitation on scope is in keeping with that policy, and corrects an error made when Oregon adopted the Federal standard by reference. The State's revised rules pertaining to Servicing of Multi-Piece an Single-Piece Rim Wheels, contained in OAR 437-02-1910.177, were adopted and became effective on December 18, 1990, pursuant to ORS 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under OR-OSHA Administrative Order 29-1990. On December 1, 1990, the State mailed the Notice of Proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list, established pursuant to OAR 436-01-000 and to those on the Department's distribution list as their interest appeared. No requests for a public hearing were received. Oregon's revised standard is identical to the Federal except for the expanded scope.

The State submitted by letter dated October 24, 1990, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards amendments comparable to 29 CFR 1910 Subpart Q, Welding, Cutting and Brazing, as published in the **Federal Register** (55 FR 13694) on April 11, 1990, and corrected in the **Federal Register** (55 FR 25093) on June 20, 1990; and to 29 CFR 1910.272, Grain Handling Facilities, and 29 CFR 1910.110, Storage and Handling of Liquified Petroleum Gases, as published in the **Federal Register** (55 FR 25093) on June 20, 1990. The Oregon Welding, Cutting and Brazing Standard is contained in OAR Chapter 437, Division 2, Subpart Q. The Oregon Grain Handling Facilities Standard is contained in OAR Chapter 437, Division 2, Subpart K; and the Oregon Liquified Petroleum Gases Standard is contained in OAR Chapter 437, Division 125. The amendments were adopted by reference and became effective on December 1, 1990, pursuant to OAR 654.025(2), ORS 656.726(3), and ORS 183.335, as ordered and transmitted under the Oregon OSHA Administrative Order 23-1990. The Administrative Order adopted the Federal Welding, Cutting, and Brazing Standard by reference, and updated references in the grain handling and liquified petroleum gases standards to the revised welding standard. The Administrative Order also included State-initiated amendments which cover: Job planning and layout; eye protection and protective clothing; special precautions for welding on walls, floors and ceilings; toxic preservative coatings; health protection and ventilation; precautionary labels; blowpipes and torches; oxygen-fuel-gas operating procedures and storage; pressure reducing regulators; and hoses and hose connections. The State-initiated amendments were previously approved as part of the State's original Welding, Cutting and Brazing Standard on March 16, 1976, in 41 FR 11088. The State did not adopt 29 CFR 1910.252(a)(3)(i), welding or cutting used drums, barrels, tanks or other containers; and in its place retained OAR 437-02-297, which applies to welding or cutting all drums, barrels, tanks and other containers, whether "used" or not. The two rules are identical except for this slight difference in scope, and Oregon's added clarification of one term. The State also did not adopt 29 CFR 1910.252(c)(4)(iii), Hose Masks with Blowers in Areas Immediately Hazardous to Life, but in its place retained OAR 437-02-298, which does not allow hose masks with blowers in areas immediately hazardous to life, but instead requires use of self-

contained breathing equipment approved by MSHA and NIOSH. This is a technical change that removes a conflict in the wording of the Federal standard; Oregon's standard is thus more enforceable. While allowing hose masks with blowers as well as self-contained breathing equipment, the Federal standard also requires that the breathing equipment be approved by MSHA and NIOSH. However, the NIOSH Certified Equipment List of December 31, 1988, does not allow use of hose mask respirators in areas immediately dangerous to life. Oregon made this change after consulting with the Federal OSHA standards staff in Washington, DC. On August 28, 1990, the State mailed the proposed Amendment of Rules to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436-01-000 and to those on the Department's distribution list as their interest appeared. No written comments or requests for a public hearing were received.

On its own initiative, the State has submitted by letter dated January 13, 1987, from William J. Brown, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standard amendments to OAR 437 Division 93, Powder-Actuated Tools and Fastening Systems. OAR 437 Division 93 was formerly codified as OAR 437, Division 12. The re-codification as OAR 437, Division 93, received Federal Register approval at 56 FR 19383 on April 26, 1991. The State's original standard, OAR 437, Division 12, received Federal Register approval at 40 FR 36818 on August 22, 1975. The amended standards are: OAR 437-93-030(1), which requires that powder-actuated tools meet the design requirements of ANSI A10.3-1985, Powder-actuated Fastening Systems—Safety Requirements; OAR 437-93-060(3), which incorporates amended OAR 437-93-060(9); and OAR 437-93-060(9), which allows limited interchange of fasteners and power loads as long as the criteria of ANSI A10.3-1985 are met. Notice of the State's amendments was published in the Secretary of State's Administrative Rules Bulletin on November 1, 1986. On October 28, 1986, the notice of proposed amendment was mailed to those on the Workers' Compensation Department mailing list pursuant to OAR 436-01-000 and the Department's distribution list as their interest appeared. Both actions failed to elicit a request for a hearing. The State's standard amendments were adopted on December 11, 1986, with an effective date of December 15, 1986, under Oregon WCD Administrative Order, Safety 13-1986. The amendment was requested by The Associated General Contractors of America, Inc. (AGC) to allow users of powder-actuated tools more flexibility in choosing fasteners and power loads to be used. Oregon's rules require that each tool operator be trained and certified by an instructor authorized by the tool manufacturer only for that manufacturer's powder-actuated tools. The rules also required that only those types of fasteners and power loads recommended by the manufacturer can be used. However, some manufacturers had declined to issue "Qualified Operator's Cards" to users who do not use that company's fasteners and power loads. This amendment allows use of any fasteners and power loads meeting ANSI Standard A10.3-1985, with which all manufacturers of fasteners and power loads already comply. OSHA considers this to be a minor amendment aimed at reducing the burden on employers that also assures equivalent safety.

2. Decision

Having reviewed the State's submission in comparison with Federal standards, OSHA has determined that the State's standards amendments for Textiles, Bakery Equipment, Laundry Machinery and Operations, Sources of Standards and Standards Organizations; Control of Hazardous Energy Sources (Lockout/Tagout); and Nitroglycerin are identical to the comparable Federal standards. OSHA therefore approves these amendments. OSHA has also determined that the differences between the State and Federal amendments for Hazardous Chemicals in Laboratories, and Guarding of Portable Powered Tools (Lawn Mowers) are minimal and that the State standards amendments are thus substantially identical. Oregon has demonstrated compelling reasons for delaying the effective dates of its Hazardous Chemicals in Laboratories amendment. OSHA therefore approves these amendments; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

OSHA has also determined that the State's standards amendments for Electrical Standards; Servicing Multi-Piece and Single Piece Rim Wheels; Welding, Cutting and Brazing; and Powder-Actuated Tools and Fastening Systems are at least as effective as the Federal standard amendments. Along with its adoption by reference of 1910 Subpart S, Electrical Standards, the State has retained some State-initiated electrical standards which were previously approved by OSHA, has incorporated a minor State-initiated rule, and did not adopt one provision that conflicts with Oregon's previously approved and more stringent Electrical Rules for Construction. The State amended its Rim Wheels standard to correct an error made when Oregon adopted the Federal standard by reference; Oregon revoked the limitation on scope to comply with the State's longstanding policy of applying all Oregon safety and health rules to all employers. In adopting the Federal Welding, Cutting and Brazing standard by reference, the State also included a number of previously approved State-initiated amendments, and the State adopted two State-initiated provisions in lieu of two Federal provisions that contained minor differences. Oregon adopted a minor amendment to its Powder-Actuated Tools standard at industry request to reduce the burden on employers by allowing users of these tools more flexibility in choosing fasteners and power loads to be used. OSHA therefore approves these amendments; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 1111 Third Avenue, Suite 715, Seattle, Washington 98101-3212; Oregon Occupational Safety and Health Division, Department of Insurance and Finance, 21 Labor and Industries Building, room 160, 350 Winter Street, NE., Salem, Oregon 97310; and the Office of State Programs, Occupational Safety and Health Administration, Room N-3700, 200 Constitution Avenue NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason: The standard amendments were adopted in accordance with the procedural

requirements of State law and further public participation would be repetitious.

This decision is effective November 4, 1992.

Authority: Sec. 18, Pub. L. 91-596, 84 Stat. 1608 [29 U.S.C. 667].

Signed at Seattle, Washington, this 29th day of November, 1991.

James W. Lake,

Regional Administrator.

[FR Doc. 92-26728 Filed 11-3-92; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 92-83; Exemption Application No. D-9132, et al.]

Grant of Individual Exemptions; Tyco Laboratories, Inc. Collective Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Tyco Laboratories, Inc. Collective Trust (the Trust) Located in Exeter, New Hampshire

[Prohibited Transaction Exemption 92-83; Exemption Application No. D-9132]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The interest-free extensions of credit (the Advances) by Tyco Laboratories, Inc., the sponsor of the Trust, to the Trust with respect to Guaranteed Investment Contract No. CG0127303A (the GIC), issued to the Trust by Executive Life Insurance Company of California (ELIC); and (2) the Trust's potential repayments of the Advances (the Repayments); provided that (a) all terms of such transactions are no less favorable to the Trust than those which the Trust could obtain in an arm's-length transaction with an unrelated party, (b) no interest and/or expenses are paid by the Trust, (c) the Advances are made only in lieu of payments due from ELIC and other responsible parties with respect to the GIC (or a Replacement GIC as defined in the notice of proposed exemption), (d) the Repayments do not exceed the total amount of the Advances, (e) the Repayments in no event exceed the amounts actually received by the Trust from ELIC and other responsible parties with respect to the GIC, and (f) the Repayments will be waived to the extent the Trust recoups less from or on behalf of ELIC from the disposition of the GIC (or a Replacement GIC) than the total amount of the Advances.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 1, 1992 at 57 FR 39705.

EFFECTIVE DATE: This exemption is effective June 30, 1992.

WRITTEN COMMENTS AND HEARING REQUESTS: The Department received one written comment with respect to the proposed exemption which was in favor of the Department's granting the exemption. The Department received one hearing request which was subsequently withdrawn. The Department has considered the entire record, including the written comment, and has determined to grant the exemption as proposed.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

Carmine P. Errico, M.D. IRA Rollover Trust (the IRA) Located in Jersey City, New Jersey

[Prohibited Transaction Application 92-84; Exemption Application No. D-9047]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale of a certain vacant lot (Lot 28.01) by the IRA to Lyn Errico, a disqualified person with respect to the IRA; provided that the IRA receives the greater of: (1) The fair market value of Lot 28.01 as determined at the time of the sale by an independent qualified appraiser; or (2) the initial acquisition cost of Lot 28.01 plus the aggregate holding costs incurred by the predecessor plan to the IRA and subsequently by the IRA since the initial acquisition of Lot 28.01; and further provided that the following conditions are satisfied:[1]

(a) The proposed sale will be a one-time cash transaction; and

(b) The IRA will pay no expenses associated with the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on September 28, 2992 at 57 FR 44588/44589.

FOR FURTHER INFORMATION CONTACT: Ekaterina A. Uzlyan of the Department at (202) 219-8883. (This is not a toll-free number.)

[1] Pursuant to CFR 2510.3-2(d), there is no jurisdiction with respect to the IRA under title I of the Act. However, there is jurisdiction under title II of the Act pursuant to section 4975 of the Code.

Thomas S. Monaghan, Inc. Tax Deferred Savings Plan (the Plan) Located in Ann Arbor, Michigan

[Prohibited Transaction 92–85; Exemption Application No. D–9122]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the extension of credit (the Advances) to the Plan by Thomas S. Monaghan, Inc. the sponsor of the Plan, with respect to four guaranteed investment contracts (the GICs) assumed and/or issued by Inter-American Insurance Company of Illinois (Inter—American Illinois); and (2) the potential repayment of the Advances (the Repayments) by the Plan; provided that the following conditions are satisfied:

(a) All terms of such transactions are no less favorable to the Plan than those which the Plan could obtain in arm's-length transactions with an unrelated party;

(b) No interest and/or expenses are paid by the Plan;

(c) The Advances are made only in lieu of payments due from Inter-American with respect to the GICs;

(d) The Repayments shall not exceed the amount of the Advances;

(e) The Repayments shall not exceed the amounts actually received by the Plan from Inter-American Illinois, any state guaranty fund, and other responsible third party payors with respect to the GICs (the GIC Proceeds); and

(f) The Repayment of the Advances shall be waived to the extent that the amount of the Advances exceeds the total GIC Proceeds.

Written Comments: The Department received one written comment and no requests for a hearing. The comment was submitted on behalf of the applicant, Thomas S. Monaghan, Inc. (the Applicant), in clarification of the summary of facts and representations in the Notice of Proposed Exemption. The Applicant represents that in its application for the proposed exemption, it had reported the interest rate for one of the GICs incorrectly. In the Notice of Proposed Exemption, it is stated that Contract No. C90578 earns interest after the third anniversary at the rate of 9.15 percent. The Applicant represents that the correct figure is 8.5 percent.

After consideration of the entire record, the Department has determined to grant the proposed exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 1, 1992 at 57 FR 39703.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Merit Reporting, Inc., dba Merit College of Court Reporting, Inc. Profit Sharing Plan (the Plan) Located in Rancho Mirage, California

[Prohibited Transaction Exemption 92–86; Exemption Application No. D–8867]

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale of 25 units (the Units) of MLH Income Realty Partnership IV (the Partnership) from the Plan to M. William Gumpert and Virginia L. Gumpert (the Gumperts), parties in interest with respect to the Plan, provided the sale price is not less than the greater of (a) the fair market value of the Units as of the proposed sale date, or (b) the Plan's aggregate cost of acquiring and holding the Units.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on July 7, 1992 at 57 FR 29896.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

Inland Container Corporation Savings and Stock Purchase Plan for Salaried Employees (the Plan) Located In Indianapolis, Indiana

[Prohibited Transaction Exemption 92–87; Exemption Application No. D–9036]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the extension of credit to the Plan (the Advances) by Inland Container Corporation, a party in interest with respect to the Plan, relating to guaranteed investment contract #GA–CG0128303A (the GIC) issued by Executive Life Insurance Company of California (Executive Life); and (2) the Plan's potential repayment of the Advances (the Repayments); provided that (a) all terms of such transactions are no less favorable to the Plan than those which the Plan could obtain in arm's-length transactions with an unrelated party, (b) the Advances are made only in lieu of payments due from Executive Life with respect to the GIC, (c) the Repayments shall not exceed the Advances plus interest which may accrue on such amounts determined at the Amended Rate (as described in the Notice of Proposed Exemption), (d) the Repayments of the Advances including interest thereon, if any, shall be made only from, and shall not exceed, the amounts actually received by the Plan from Executive Life or any other source making payment with respect to the GIC (the Recoveries), and (e) the Repayments are waived to the extent the Advances exceed the Recoveries.

Written Comments: The Department received two written comments and no requests for a hearing. One comment was submitted on behalf of the applicant, Inland Container Corporation (Inland), as a clarification of the Notice of Proposed Exemption. Paragraphs 3 and 4 of the Notice indicate that the GIC was purchased for the Plan at the direction of the Committee. Inland represents that in fact, the Plan's administrator directed the Trustee to purchase the GIC for the Plan, and the Committee did not have any authority to direct the investment of Plan assets until August 2, 1991. A second comment was submitted by a Plan participant who expressed a concern that the proposed transaction might reduce the earnings of Inland and adversely affect the interests of those Plan participants whose Accounts are invested in the Plan's common stock fund. A response to this comment was submitted by Inland. Inland notes that the Advances are to be repaid by the Plan from any amounts recovered with respect to the GIC from Executive Life, its successor or any state guaranty fund. Inland represents that even if none of the Advances were to be repaid, Inland's payment of the maximum amount of Advances under the proposed exemption would have no material effect on the fair market value of, or dividends with respect to, Temple-Inland, Inc. common stock or any Plan participant's interest in the Temple-Inland Inc. Common Stock Fund.

After consideration of the entire record, the Department has determined to grant the exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of

proposed exemption published on August 4, 1992 at 57 FR 34311.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Geosonics Inc. 401(k) Profit Sharing Plan (the Plan) Located in Warrendale, Pennsylvania

[Prohibited Transaction Exemption 92–88; Exemption Application Nos. D–9017 and D–9018]

Exemption

The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to loans of money to Don Froedge and Monica Froedge, parties in interest with respect to the Plan, from each of their individual accounts in the Plan, provided that the following conditions are met:

1. The terms of the loans are at least as favorable as the Plan could obtain in an arm's-length transaction with an unrelated party;

2. The loans do not exceed 25 percent of the assets of each of the individual accounts throughout the term of the loans;

3. The loans are secured through a promissory note and a perfected security agreement;

4. The fair market value of the collateral securing the loans is established by an independent real estate appraiser; and

5. The collateral is maintained throughout the loan terms at no less than 150 percent of the combined amount of the balance on the two loans and any other encumbrance on the collateral.

For a more complete statement of the facts and representatives supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on September 1, 1992, at 57 FR 39704.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 30th day of October, 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92–26767 Filed 11–3–92; 8:45 am]

BILLING CODE 4510–29–M

OFFICE OF PERSONNEL MANAGEMENT

Renewal of the Federal Prevailing Rate Advisory Committee

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management has renewed the charter for the Federal Prevailing Rate Advisory Committee (the Committee). It takes this action in accordance with the Federal Advisory Committee Act, which requires rechartering advisory committees at least every 2 years to insure against continuing committees that no longer carry out their original purposes. The Committee will continue to advise the Director of the Office of Personnel Management in matters pertaining to establishing rates under 5 U.S.C., chapter 53, subchapter IV, as amended.

EFFECTIVE DATE: September 29, 1992.

FOR FURTHER INFORMATION CONTACT: Office of Personnel Management.

Anthony F. Ingrassia,

Chairman.

Federal Prevailing Rate Advisory Committee—Charter

A. Official Designation

The Federal Prevailing Rate Advisory Committee.

B. Objectives and Scope

The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under 5 U.S.C. chapter 53, subchapter IV, as amended.

C. Duration

There is no time limit set forth in 5 U.S.C., chapter 53, subchapter IV. The mandate of the Committee is one of a continuing nature, until amended or revoked by appropriate act of Congress.

D. Responsible Agency Official

The Committee makes recommendations to the Office of Personnel Management. The Chairman of the Committee reports to the Director, Office of Personnel Management.

E. Agency Providing Support

United States Office of Personnel Management.

F. Committee Responsibilities

The Committee is advisory; its primary responsibility is to study the prevailing rate system and from time to time advise the Office of Personnel Management thereon. The Committee shall submit an annual report to the Office of Personnel Management and the President, for transmittal to Congress, as required by section 5347(e) of 5 U.S.C.

G. Estimated Annual Operating Costs in Dollars and Staff-Years

Using current salary schedules, $197,000.00 and two staff-years.

H. Estimated Number and Frequency of Meetings

The meeting schedule contemplated for the Committee is two meetings each month throughout a calendar year; more frequent meetings shall be scheduled when deemed necessary.

I. The Committee's Termination Date

There is no statutory termination date. The Chairman of the Committee serves for a 4-year term, as set forth in section 547(a)(1) of 5 U,S.C. Management members serve at the pleasure of the designating authority. Labor

membership is reviewed every 2 years to assure entitlement under the criteria set forth in section 5347(b) of 5 U.S.C.

J. Date Filed

Dated: September 29, 1992.

Approved:

Douglas A. Brook,

Acting Director, Office of Personnel Management.

[FR Doc. 92-26711 Filed 11-3-92; 8:45 am]

BILLING CODE 6325-01-M

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on—

Thursday, November 19, 1992
Monday, December 7, 1992

The meetings will start at 10:45 a.m. and will be held in room 5A06A, Office of Personnel Management Building, 1900 E Street, NW., Washington, DC.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership on the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, room 1340, 1900 E Street, NW., Washington, DC 20415 (202) 606-1500.

Dated: October 28, 1992.

Anthony F. Ingrassia,

Chairman, Federal Prevailing Rate Advisory Committee.

[FR Doc. 92-26710 Filed 11-3-92; 8:45 am]

BILLING CODE 6325-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Representative Payee Parental Custody Monitoring.

(2) *Form(s) submitted:* G-99d.

(3) *OMB Number:* 3220-0176.

(4) *Expiration date of current OMB clearance:* Three years from date of OMB approval.

(5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

(6) *Frequency of response:* On occasion.

(7) *Respondents:* Individuals or households.

(8) *Estimated annual number of respondents:* 5,900.

(9) *Total annual responses:* 1.

(10) *Average time per response:* .0834 hours.

(11) *Total annual reporting hours:* 492.

(12) *Collection description:* Under section 12(a) of the RRA, the RRB is authorized to select, make payments to, and conduct transactions with an annuitant's relative or some other person willing to act on behalf of the annuitant as a representative payee. The collection obtains information needed to verify that parent-for-child payee still retains custody of the child.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,

Clearance Officer.

[FR Doc. 92-26699 Filed 11-3-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

October 29, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Citicorp
1.21 Dep. Shs. Rep. 1/2 sh Conv. Pfd Stk, PERC, No Par Value (File No. 7-9377)

Interdigital Communications Corp.
Common Stock, $.01 Par Value (File No. 7-9378)

Kohl's Corp.
Common Stock, $.01 Par Value (File No. 7-9379)

Savannah Foods & Industries, Inc.
Common Stock, $.25 Par Value (File No. 7-9380)

Acordia, Inc.
Common Stock, $1.00 Par Value (File No. 7-9381)

Continental Can Co., Inc.
Common Stock, $.25 Par Value (File No. 7-9382)

Moorco International, Inc.
Common Stock, $.01 Par Value (File No. 7-9383)

Minerals Technologies, Inc.
Common Stock, $.10 Par Value (File No. 7-9384)

Society Corp.
Common Stock, $1.00 Par Value (File No. 7-9385)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 92-26755 Filed 11-3-92; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-31361; File No. SR-CBOE-92-17]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc.; Relating to Flexible Exchange Options ("FLEX Options")

October 27, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 31, 1992, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The CBOE has filed proposed rule changes to amend its rules to permit the listing and trading on the Exchange of large-size, customized index options, referred to as Flexible Exchange Options ("FLEX Options").

The text of the proposed rule changes is available at the Office of the Secretary, CBOE and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Changes

(1) Purpose

The CBOE states that the purpose of the proposal is to provide a framework for the Exchange to list and trade index options that give investors the ability, within specified limits, to designate certain of the terms of the options. In recent years, an over-the-counter ("OTC") market in customized index options has developed which permits participants to designate the basic terms of the options, including size, term to expiration, exercise style, exercise price and exercise settlement value, in order to meet their individual investment needs. Participants in this OTC market are typically institutional investors, who buy and sell options in large-size transactions through a relatively small number of securities dealers.

The CBOE believes that there are several benefits to be realized by providing for the trading of FLEX Options on its exchange marketplace. Among these benefits are the following:

(1) By trading FLEX Options in the CBOE's centralized, open-outcry, auction market, with designated members having market-making responsibilities, investors will be better able to initiate and close-out positions efficiently and at the best available prices;

(2) Unlike the existing OTC market, the CBOE's market will provide transparency as the result of real time dissemination of requests for quotes, the best bid or offer made in response to these requests, and reports of completed transactions in FLEX Options;

(3) The role of the Options Clearing Corporation ("OCC") as issuer and guarantor of FLEX Options will eliminate concern over contra-party creditworthiness and assure performance upon exercise of FLEX Options; and

(4) Subjecting FLEX Options to the CBOE's rules, regulations and oversight will provide enhanced investor protection and market surveillance.

Transactions in FLEX Options traded on the CBOE will generally be subject to the same rules that presently apply to the trading of CBOE index options. However, in order to provide investors with the flexibility to designate certain of the terms of the options and to accommodate other special features of FLEX Options and the way in which they are traded, the CBOE has proposed several new rules.

The principal rules proposed by the CBOE that are uniquely applicable to the FLEX market include a rule containing new definitions (Rule 24A.1), a special rule regarding trading rotations (Rule 24A.3), rules setting forth the special terms of FLEX contracts and certain special pieces of information that must be included in FLEX Requests for Quotes and responsive quotes (Rule 24A.4), rules prescribing the mechanics of initiating a FLEX Request for Quotes and bidding and offering in response thereto, rules setting forth the principles applicable to the formation of binding FLEX contracts, rules defining the applicable priority principles (Rule 24A.5), special position limit and exercise limit rules (Rules 24A.7 and 24A.8), special FLEX Market-Maker appointment rules (Rule 24A.9) and special market-maker capital and letter of guarantee rules (Rules 24A.13, 24A.14 and 24A.15), as well as certain administrative rules respecting Exchange services (Rules 24A.12 and 24A.16). Discussion of each of these new rules follows.

Proposed Rule 24A.1 adopts nomenclature uniquely tailored to fit the special characteristics of FLEX Options and the FLEX market. For example, the term "Request Response Time" refers to the time interval, set by the Submitting Member in its Request for Quotes, during which responsive bidding and offering is to take place. Similarly, the term "FLEX Quote" has both its usual connotation—market-maker bids and offers—and a new connotation—brokers' orders to purchase and orders to sell—that is necessary in view of the unique mechanics of the FLEX exchange auction.

Proposed Rule 24A.2 provides that FLEX trading will take place during the normal exchange trading hours set for trading index options, although the Exchange's Board of Directors is given specific authority to narrow or otherwise restrict the time set for FLEX trading as circumstances dictate. At the present time, the board has determined

that FLEX trading will commence at 9:00 a.m. Central Time, one-half hour later than the opening time currently set for the trading of non-FLEX index options. The Exchange anticipates that this approach should promote smooth, liquid openings for both FLEX and non-FLEX index options and limit the burdens, particularly on Exchange members, associated with the opening of trading each day. As a complementary rule uniquely applicable to FLEX Options, Proposed Rule 24A.3 specifies that there will be no trading rotations in FLEX Options, either at the opening or at the close of trading.

Proposed Rule 24A.4 specifies the term elements and other informational ingredients that must be included in Requests for Quotes, FLEX Quotes submitted in response to such requests, and, ultimately, FLEX contracts that are the product of FLEX trading. As paragraph (b) of this proposed rule indicates, the content of certain terms of each FLEX contract is to be determined by the parties to the contract. Other terms, such as the level of the index multiplier and the nature of the rights and obligations of FLEX option purchasers and sellers, are the same for FLEX as for non-FLEX index options.

More specifically, Paragraph (c) of Proposed Rule 24A.4 specifies the term elements that a Submitting Member must include in its Request for Quotes and indicates the content alternatives available for each term. Under this paragraph a Submitting Member must designate, among other terms, the day, month and year of the FLEX Option's expiration, subject to certain limitations designed to avoid the overlap of FLEX expirations with expirations of non-FLEX index options. Similarly, a Submitting Member must identify the exercise price and the exercise settlement value of the FLEX Option, and those variable FLEX terms must fit within stated parameters.

Paragraph (d) of this proposed rule lists certain additional categories of information that must be addressed by the Submitting Member in its Request for Quotes. In particular under this paragraph, a Submitting Member must indicate the type and form of quote sought, the length of the Request Response Time (i.e., the time interval during which FLEX-participating members may enter quotes responsive to the request), and the Submitting Member's intention, if any, to cross a customer order or act as principal with respect to any part of the FLEX trade.

Finally, paragraph (e) of this proposed rule specifies the maximum term and the minimum value size of any FLEX contract and provides that the term and size may be set, within the stated limits, at the discretion of the Submitting Member or the quoting party, as applicable. Under this paragraph, the maximum FLEX term is five years; the minimum value size (i.e., the aggregate underlying dollar value that is the subject of the option) for a FLEX Request for Quotes is $10 million in an opening transaction in a new FLEX option series and $1 million in an opening or closing transaction in any currently-opened FLEX series (or less in a closing transaction where the remaining underlying value is less than $1 million); and the minimum value size for quotes of Market-Makers in response to a Request for Quotes is $1 million or any lesser amount reflected in a Request for Quotes (except that Market-Makers appointed to FLEX Options on the underlying index that is the subject of the Request for Quotes must be prepared to respond to a Request for Quotes in a size of at least $10 million underlying value).

These provisions, collectively, provide investors and FLEX-participating members with significant latitude in structuring the terms of FLEX Options contracts. The Exchange believes that such latitude is both important and necessary to the Exchange's effort to create a product and a market that provides members and investors interested in FLEX-type options with an improved but comparable alternative to the OTC options market. To enable the efficient, centralized clearance and active secondary trading of opened FLEX options, however, the extent of variability in structuring FLEX Options is necessarily limited. Only certain terms are subject to flexible structuring by the parties to FLEX transactions, and most of such terms have a specified number of alternative configurations.[1]

Proposed Rule 24A.5 prescribes in some detail the mechanics of submitting Requests for Quotes and entering responsive bids and offers. These mechanics, described below, are designed to create a modified auction that takes into account the relatively small number of transactions that are likely to occur in this institutional, large-size market, while at the same time providing the FLEX market with the price improvement and transparency benefits of competitive Exchange floor bidding and offering, as compared with the OTC market. The Exchange believes that the resulting market environment will be fair, efficient and creditworthy and, as such, will prove to be particularly suitable to the large sophisticated trades and investors that now resort to the OTC market to effect customized options transactions. Proposed Rule 24A.5 establishes time and price priority principles and contains special rules respecting the bidding and offering process and the method of allocating trades in instances in which the Submitting Member expresses an intention to cross or act as principal on a Request for Quotes. These proposed rules are designed to promote active bidding and offering that will generate the best price available, while also providing incentives to market-makers appointed to FLEX Options, floor participants, and upstairs firms alike to participate in the FLEX market.

In particular, paragraphs (a) and (b) of proposed Rule 24A.5 indicate that the FLEX bidding and offering process is initiated once a Submitting Member has supplied a Request for Quotes in proper form and the FLEX Post Official has disseminated the terms of that request at the post and over FLEX communications facilities yet to be developed. Thereafter, FLEX Quotes in proper form must be entered, but may be modified or withdrawn (subject to special limitations imposed on appointed market-makers) by public outcry at any time during the Request Response Time. The length of the Request Response Time, which must fall within time parameters to be set by the SPX Floor Procedure Committee, is to be specified in the Request for Quotes. At the expiration of the Request Response Time, the FLEX Post Official will determine the best bid and/or offer (the "BBO").

Proposed paragraphs (c)–(f) provide that the BBO will be displayed at the post and over communication facilities and, at that point, or after further bidding and offering that occurs in certain specified circumstances, the Submitting Member will have the opportunity to accept or reject the BBO. The Submitting Member, however, has no obligation to accept the BBO. Thus, whenever the BBO is rejected the Request for Quotes expires, although FLEX-participating members other than the Submitting Member may accept the unfilled balance of the BBO. Similarly, whenever the BBO is accepted, the transaction (or transactions) will be executed in accordance with the crossing principles and priority principles set forth in paragraph (e), although, again, FLEX-participating

[1] In addition to the specified term alternatives indicated in the text, FLEX transactions will be limited to transactions in options on the S&P 100 and the S&P 500 (Proposed Rule 24A.4(a)) and shall be denominated for settlement in cash in U.S. dollars only (Proposed Rule 24A.4(e)).

members may accept any unfilled balance of the BBO.

The Exchange believes that the foregoing mechanics, procedures and principles combine the benefits of an Exchange auction with certain features of a negotiated transaction. That combination should enhance competition with respect to FLEX Options and provide a fair and orderly trading environment that operates subject to Exchange rules and oversight.

Proposed Rule 24A.7 states position limits that will be unique to FLEX Options. Procedurally, CBOE is proposing that positions in FLEX Options will not be combined with positions in non-FLEX options in determining compliance with the Exchange's existing position limits in Rule 24.4. Substantively, the rule proposes that the Board of Directors will set limits appropriate to the market, but in no event greater than 500,000 contracts on the same side of the market on a given index, with no more than 200,000 of such contracts expiring in any given calendar year.[2]

In setting the position limit boundaries stated in proposed Rule 24A.7, the Exchange has been cognizant of the tension between the evident need of OTC market participants' need for substantial options transaction capacity to hedge their substantial investment portfolios, on the one hand, and the potential for untoward effects on the market or on firms that might be attributable to excessive FLEX positions on the other. The Exchange has also been cognizant of the existence of a competitive OTC market in which no position limits apply. For the following reasons, the Exchange believes that the position limit boundaries set forth in proposed Rule 24A.7, together with other FLEX rules, strike a necessary and appropriate balance.

First, as noted, no position limits apply to index options in the OTC market. If the Exchange is to compete successfully with the OTC market, it will have to provide capacity for execution in size that is comparable to the OTC market. Inadequate position limits would, in the CBOE's view, impair potential competition and would preclude the Exchange from extending the benefits of its regulated, transparent market and centralized clearance facilities to the sophisticated firms and investors currently trading options OTC.

Second, under proposed Rule 24A.7(c), FLEX Options will expire no closer than three business days from any non-FLEX option expiration day, which, in the CBOE's view, should effectively insulate non-FLEX expirations from the market impacts of FLEX expirations, if any. Moreover, the Exchange anticipates that there will be limited secondary trading in any FLEX Options series having a particular expiration date due to the diversity inherent in FLEX Options. Indeed, FLEX expiration concentrations should be rare.

Finally, the Exchange is proposing at this time only to list FLEX Options on the board-based S&P 100 and S&P 500 indexes. The risk of manipulation of underlying values as a result of large FLEX transactions or exercises in accordingly greatly diminished. Similarly, the presence of a Request Response Time interval and in most instances a BBO Improvement Interval between the initiation of a Request for Quotes and the execution of a FLEX Option make it improbable that FLEX Options can be used for index arbitrage, where simultaneous executions are often required for success.

Proposed Rule 24A.9 provides for separate appointments of Market-Makers to FLEX Options, although the appointment process will be essentially the same as appointments to other options. This rule further provides that appointed Market-Markers will have an affirmative obligation to quote in a size of at least $10 million, in response to every Request for Quotes on a FLEX Option on an index to which the Market-Maker is appointed. Such quotes must be firm, unless modified or withdrawn prior to the end of the Request Response Time, for the duration of the Request Response Time and, if applicable, the BBO Improvement Interval. As noted earlier, Market-Makers have no obligation to maintain continuous quotes or to quote a minimum spread, and quotes expire at the end of each FLEX bidding and offering period.

Proposed Rules 24A.13, 24A.14, and 24A.15 set minimum financial requirements for Market-Makers trading or appointed to FLEX Options. The financial minimums stated in proposed Rules 24A.13 and 24A.14 are unique to FLEX Options.

Proposed Rule 24A.13 requires every Market-Maker to maintain at least $100,000 in net liquidating equity in any FLEX trading account with each given clearing member. The Exchange believes that the stated minimum provides an adequate and suitable financial floor for FLEX market-marking activity without unduly restricting access to these products.

Proposed Rule 24A.14 requires FLEX-appointed Market-Makers to maintain at least $1 million in net liquidating equity or net capital, as applicable. Again, although this minimum requirement is unique to FLEX Options, the Exchange believes that it represents a suitable and adequate financial floor for FLEX-appointed Market-Markers undertaking the substantial FLEX Quote responsibility.

Proposed Rule 24A.15 extends the general letter of guarantee requirement under existing Exchange Rule 8.5 to FLEX Market-Makers, thereby subjecting FLEX Market-Markers to a focused creditworthiness review by their clearing members. In the Exchange's experience, clearing firms issue a letter of guarantee only to their most creditworthy Market-Makers. The review and issuance requirement imposed under proposed Rule 24A.15 substantially supplements the independent financial requirements of proposed Rules 24A.13 and 24A.14.[3]

(2) Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act, in general, and Section 6(b)(5), in particular, in that they are designed to promote just and equitable principles of trade, to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule changes will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule changes.

[2] Proposed Rule 24A.8 establishes exercise limit provisions that correspond to the provisions of proposed Rule 24A.7.

[3] The proposed rule changes include the following minor changes as well as the changes discussed in the text. Proposed Rules 24A.16 and 24A.17 make certain Exchange services and certain specific rules inapplicable to FLEX Options. Proposed Rule 24A.6 enables a Floor Broker to exercise discretion with respect to the number of FLEX Option contracts to be purchased or sold—notwithstanding contrary limitations in Rule 6.75—in view of the special features that will be associated with FLEX Options bidding and offering. Finally, proposed Rule 24A.12 establishes a new class of Exchange employee—a FLEX post official—and sets forth the post official's special duties.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule changes, or

(b) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to the file number in the caption above and should be submitted by November 25, 1992.

In particular, the Commission seeks comment on the following items:

(1) The size and non-aggregation of the proposed FLEX Options position limits;

(2) The ability of FLEX Options to have their settlement value at expiration based on the closing or opening prices of the component securities of the S&P 100 and 500, or a variation thereof; [4] and

(3) Whether or not FLEX Options are in fact "standardized options," that may use the options disclosure framework under Rule 9b–1 of the Act.

[4] As indicated above, FLEX Options will expire no closer than three business days from any non-FLEX option expiration day.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–26707 Filed 11–3–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Incorporated

October 29, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

American Adjustable Rate Term Trust, Inc.
Common Stock, $.10 Par Value (File No. 7–9412)

Banco Latinoamericano de Exportaciones, S.A.
Class E Common Stock, No Par Value (File No. 7–9413)

Blackrock California Insured Municipal 2008 Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–9414)

Blackrock Florida Insured Municipal 2008 Term Trust, Inc.
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–9415)

Blackrock Insured Municipal 2008 Term Trust, Inc.
Common Stock, $.01 Part Value (File No. 7–9416)

Blackrock New York Insured Municipal 2008 Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–9417)

Comdisco, Inc.
8¾% Cum. Pfd. Shares, Ser. A, $10.00 Par Value (File No. 7–9418)

Georgia Power Co.
$1.9375 Class A Pfd. Stock, No Par Value (File No. 7–9419)

Heller Financial, Inc.
8⅛% Cum. Perp. Sr. Pfd. Stock, Ser. A, $.01 Par Value (File No. 7–9420)

HMO America, Inc.
Common Stock, $.01 Par Value (File No. 7–9421)

Income Opportunities Fund 1999, Inc.
Common Stock, $.10 Par Value (File No. 7–9422)

Intercapital Quality Municipal Income Trust
Common Shares of Beneficial Interest $.01 Par Value (File No. 7–9423)

John Alden Financial Corp.
Common Stock, $.01 Par Value (File No. 7–9424)

MuniYield Quality Fund II, Inc.
Common Stock, $.10 Par Value (File No. 7–9425)

Nuveen Select Maturities Municipal Fund
Shares of Beneficial Interest, $.01 Par Value (File No. 7–9426)

Nuveen Select Tax-Free Income Portfolio 4
Shares of Beneficial Interest, $.01 Par Value (File No. 7–9427)

Royal Bank of Scotland Group, Plc
American Depositary Shares, Ser. C (rep 1 Non-Cum.
Dollare Pref. Share, Ser. C (File No. 7–9428)

Surgical Care Affiliates, Inc.
Common Stock, $.25 Par Value (File No. 7–9429)

Tommy Hilfiger Corp.
Ordinary Shares $.01 Par Value (File No. 7–9430)

UDC Homes, Inc.
Common Stock, $.01 Par Value (File No. 7–9431)

UDC Homes, Inc.
Ser. A Pfd. Stock, $.01 Par Value (File No. 7–9432)

UDC Homes, Inc.
Ser. B Pfd. Stock, $.01 Par Value (File No. 7–9433)

UDC Homes, Inc.
Prime Pfd. Exch. Stock, $.01 Par Value (File No. 7–9434)

USX-Delhi Group
Common Stock, $1.00 Par Value (File No. 7–9435)

Westpac Banking Corp.
American Depositary Shares, (rep. 5 Ord. shares of A $1.00 each) (File No. 7–9436)

Williams Co.'s, Inc.
Cum. Pfd. Stock, $1.00 Par Value (File No. 7–9437)

Allmon Charles Trust, Inc.
Common Stock, $.10 Par Value (File No. 7–9438)

Chase Manhattan Corp.
Pfd. Stk., 8.32% Ser. L (File No. 8–9439)

Conner Peripherals, Inc.
Common Stock, No Par Value (File No. 7–9440)

Cousins Properties, Inc.
Common Stock, $1.00 Par Value (File No. 7–9441)

Dallas Semiconductor Corp.
Common Stock, $.02 Par Value (File No. 7–9442)

Dayton Power & Light Co.
7.48% Cum. Ser. D, $100.00 Par Value (File No. 7–9443)

Dayton Power & Light Co.
7.70% Cum. Ser. E, $100.00 Par Value (File No. 7–9444)

Dayton Power & Light Co.
7.375% Cum. Ser. F, $100.00 Par Value (File No. 7–9445)

Detroit Edison Co.
5½% Conv. Cum. Pfd. Ser., $100.00 Par Value (File No. 7–9446)

Detroit Edison Co.
9.32% Cum. Pfd. Ser., $100.00 Par Value (File No. 7–9447)

Detroit Edison Co.
7.68% Cum. Pfd. Ser., $100.00 Par Value (File No. 7–9448)

Detroit Edison Co.
7.45% Cum. Pfd. Ser., $100.00 Par Value (File No. 7–9449)

Detroit Edison Co.
7.36% Cum. Pfd. Ser., $100.00 Par Value (File No. 7–9450)

Detroit Edison Co.
$2.28 Cum. Pfd. Ser., $100.00 Par Value (File No. 7–9451)

Detroit Edison Co.
9.72% Cum Pfd. Ser., $100.00 Par Value (File No. 7–9452)
Dial Reit, Inc.
Common Stock, $.01 Par Value (File No. 7–9453)
Diamond Shamrock, Inc.
Common Stock, $.01 Par Value (File No. 7–9454)
Digital Communications Associates, Inc.
Common Stock, $.01 Par Value (File No. 7–9455)
Domtar, Inc.
Common Stock, No Par Value (File No. 7–9456)
Duke Power Co.
8.70% Cum. Pfd., Ser. F, $100.00 Par Value (File No. 7–9457)
Duke Power Co.
8.20% Cum. Pfd., Ser. G, $100.00 Par Value (File No. 7–9458)
Duke Power Co.
7.80% Cum. Pfd., Ser. H, $100.00 Par Value (File No. 7–9459)
Duke Power Co.
8.28% Cum. Pfd., Ser. K, $100.00 Par Value (File No. 7–9460)
Long Island Lighting Co.
7.66% Ser. CC Pfd., $100.00 Par Value (File No. 7–9461)
Medical Care America, Inc.
Common Stock, $.01 Par Value (File No. 7–9462)
Meyer Fred, Inc.
Common Stock, $.01 Par Value (File No. 7–9463)
MuniYield California Insured Fund, Inc.
Common Stocks, $.10 Par Value (File No. 7–9464)
Society Corp.
Common Shares, $1.00 Par Value (File No. 7–9465)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1992, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–26752 Filed 11–3–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

October 29, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Acordia, Inc.
Common Stock, $1.00 Par Value (File No. 7–9364)
First Israel Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–9365)
Moorco International, Inc.
Common Stock, $.01 Par Value (File No. 7–9366)
Enterprise Oil Plc
American Depository Shares (each representing three Ordinary Shares, 25p each) (File No. 7–9367)
Managed Municipals Portfolio II, Inc.
Common Stock, $.001 Par Value (File No. 7–9368)
Nuveen New Jersey Investment Quality Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–9369)
Nuveen Pennsylvania Investment Quality Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–9370)
Nuveen Select Quality Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–9371)
NTN Communications, Inc.
Common Stock, $.005 Par Value (File No. 7–9372)
Nuveen California Select Quality Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–9373)
Nuveen New York Select Quality Municipal Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–9374)
Van Kampen Merritt Trust for Investment Grade Municipals
Common Stock, $.01 Par Value (File No. 7–9375)
Van Kampen Merritt Trust for Insured Municipals
Common Stock, $.01 Par Value (File No. 7–9376)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–26751 Filed 11–3–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–31371; File No. SR–NASD–92–28]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Exclusion of Class Actions From Arbitration Proceedings

October 28, 1992.

On June 17, 1992,[1] the National Association of Securities Dealers, Inc. ("NASD" or "Association") submitted a proposed rule change to the Securities and Exchange Commission ("SEC" or "Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [2] and Rule 19b–4 thereunder.[3] The proposal amends section 12 of the NASD Code of Arbitration Procedure [4] ("Code") and Article III, Section 21 of the Rules of Fair Practice [5] to exclude class action matters from arbitration proceedings conducted by the NASD and to require that pre-dispute arbitration agreements contain a notice that class action matters may not be arbitrated.

Notice of the proposed rule change, together with its terms of substance was provided by the issuance of a

[1] On September 14, 1992, the NASD submitted Amendment No. 1 to the proposed rule change. Amendment No. 1 provides the results of a member vote on the proposal and was required before the Commission could take final action on the proposal. The proposed rule change was approved by the NASD membership with 1716 voting in favor, 365 opposed, 22 not voting, and 47 unsigned, out of 2150 ballots received.

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b–4 (1992).

[4] *NASD Securities Dealers Manual*, Code of Arbitration Procedure, Part III, Uniform Code of Arbitration, Section 12, Required Submission, CCH, ¶ 3712.

[5] *NASD Securities Dealers Manual*, Rules of Fair Practice, Article III, Section 21, Books and Records, CCH, ¶ 2171.

Commission release (Securities Exchange Act Release No. 30882, July 1, 1992) and by publication in the **Federal Register** (57 FR 30519, July 7, 1992). The Commission received two comment letters to the proposal, the substance of which is discussed below. This order approves the proposed rule change.

Background

The rule change approved in this order was developed by the Securities Industry Conference on Arbitration ("SICA").[6] SICA determined to clarify in its rules the treatment of class actions and, since 1990, SICA has been developing such rules for the Uniform Code of Arbitration ("Uniform Code"). On January 7, 1992, SICA unanimously adopted a final version of these rules. The SICA language has been modified to conform to the NASD's Code provisions and, with minor technical changes, was submitted as the rule change approved herein.

Exclusion of Class Action Matters From Arbitration

The amendment to Section 12 of the Code approved herein adds a new Subsection (d). Subsection (d)(1) provides that claims filed in arbitration as class actions are not eligible for submission under the Code. Subsection (d)(2) provides that claims filed by members of a putative or certified class action (hereinafter referred to jointly as "class action") that was filed in another forum are also ineligible for submission if the claim is encompassed by the class action. Disputes over whether the claim is encompassed by a class action are to be referred to a panel of one or three arbitrators or may be decided by the court with jurisdiction over the class action.

Subsection (d)(3) provides that no member or associated person shall move to compel arbitration against a customer who is a member of a class action unless: (1) Class certification is denied; (2) the class is decertified; (3) the customer is excluded from the class; or (4) the customer elects not to participate or has complied with court-imposed conditions, if any, for withdrawing from the class. Accordingly, neither member firms nor their associated persons may use an existing arbitration agreement to compel a customer to arbitrate a claim that is encompassed by a class action. Subsection (d)(4) provides that members and associated persons do not waive their rights under the Code or any agreement to arbitrate, except to the extent stated in new Subsection (d).

Content of Pre-Dispute Arbitration Agreements

The rule change herein approved also amends Article III, section 21(f) of the Rules of Fair Practice, which governs the content of pre-dispute arbitration agreements with customers, in order to make it consistent with new Subsection 12(d) of the Code. All new agreements signed by customers must contain a statement prohibiting persons from bring class actions to arbitration and prohibiting persons from attempting to enforce an agreement to arbitrate against a member of a class action. In order to provide NASD members sufficient time to redraft and reprint their arbitration agreements, the amendment to section 21(f) will not be effective until one year after the date of Commission approval.

Implementation

This rule change is effective upon the date of Commission approval for all open arbitrations and for arbitration filings made on or after the date, except that the change to Article III, section 21 of the Rules of Fair Practice will take effect one year after the date of Commission approval.

Comment Letters

The Commission received two comment letters on the rule filing.[7] In its comments to the Commission, The Nikko Securities Co. International, Inc., ("Nikko") stated that it was in favor of the NASD's proposal, although not necessarily for the same reasons stated by the NASD. Nikko believes that class actions should be barred from arbitration because in its view: (i) The procedures mandated by rule 23 of the Federal Rules of Civil Procedure have due process implications and require extensive judicial involvement throughout the entire class action process; (ii) class actions in arbitration proceedings would be contrary to the arbitration policy goal of having a prompt resolution of disputes; and (iii) arbitrators do not have the background, training or expertise to address class actions. In response to Nikko's comments,[8] the NASD stated that it agrees that the bar on class actions in arbitration was designed to provide investors with access to the courts, which already have developed the procedures and the expertise for managing class actions. However, the NASD does not agree that the arbitration process would provide less due process protection than the courts. Similarly, the NASD did not believe that arbitrators lack the training and expertise to deal with class action disputes. Finally, the NASD stated that it did not propose the ban on class actions in arbitration proceedings because they might be more time consuming, but rather because it believes that they are better handled by the judicial system.

The comment letter from Stone, Pigman, Walther, Wittman & Hutchinson ("Stone, Pigman") also stated that it favors the NASD's rule proposal. However, in direct opposition to the rule, Stone, Pigman suggested that the NASD and Commission both should adopt a policy that would provide that any claim governed by an arbitration agreement should be arbitrated pursuant to the terms of the agreement, regardless of whether the claim is subject to the class action. In response to Stone, Pigman's comments [9], the NASD stated that the proposed rule change will ensure that class actions and the claims of individual class members are not eligible for arbitration at the NASD, regardless of any previously existing agreement to arbitrate. The only exceptions to this rule are in the circumstances where a class action certification has been denied, the class has been decertified, or the party that was a member of a class action has withdrawn or been excluded from the class. As for Stone, Pigman's recommendation that courts consider the fact that a claim is governed by an arbitration agreement as an important factor in determining whether that claim should be arbitrated as a class action, the NASD responded that the rule change requires arbitration agreements to state specifically that class action matters may not be arbitrated. After the effective date of the instant rule filing, arbitration agreements cannot require arbitration of class action disputes. Moreover, paragraph (d)(3) clearly prohibits NASD members from enforcing existing arbitration contracts to defeat class certification of participation.

[6] All self-regulatory organizations ("SROs") that administer arbitration fora for members of the public and the Securities Industry Association (including the NASD, which administers the largest arbitration forum) participate in the work of SICA.

[7] Letter from C. Evan Stewart, General Counsel, The Nikko Securities Co. International, Inc., to Mr. Jonathan G. Katz, Secretary, SEC, dated July 20, 1992, and letter from Stephen H. Kupperman and George C. Freeman, III, Stone, Pigman, Walther, Wittman & Hutchinson, to Ms. Margaret McFarland, Deputy Secretary, SEC, dated July 30, 1992.

[8] Letter from Suzanne E. Rothwell, Associate General Counsel, NASD, to Katherine A. England, Branch Chief, Division of Market Regulation, SEC dated September 17, 1992.

[9] *Id.*

Discussion

The Commission believes that the NASD has adequately addressed the comment letters received by the Commission. The NASD believes that arbitration provides adequate due process procedures and that arbitrators are well-trained and posses the expertise to manage complex cases. However, the NASD believes, and the Commission agrees, that the judicial system has already developed the procedures to manage class action claims. Entertaining such claims through arbitration at the NASD would be difficult, duplicative and wasteful. The Commission believes that the comments of Stone, Pigman misconstrue the intent of the NASD proposal. As approved, the rule will exclude all class actions from arbitration at the NASD. The Commission agrees with the NASD's position that, in all cases, class actions are better handled by the courts and that investors should have access to the courts to resolve class actions efficiently. In the past, individuals who attempted to certify class actions in litigation were subject to the enforcement of their separate arbitration contracts by their broker-dealers. Without access of class actions in paragraph cases, both investors and broker-dealers have been put to the expense of wasteful, duplicative litigation. The new rule ends this practice.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD. Specifically, the Commission finds that the proposed rule change is consistent with the requirements of section 15A(b)(6) of the Act.[10] Section 15A(b)(6) requires, in part, that the rules of the NASD be designed "to protect investors and the public interest * * *." Over the years of the evolution of class action litigation, the courts have developed the procedures and expertise for managing class actions. Duplication of the often complex procedural safeguards necessary for these hybrid lawsuits is unnecessary. The Commission believes that investor access to the courts should be preserved for class actions and that the rule change approved herein provides a sound procedure for the management of class actions arising out of securities industry disputes between NASD members and their customers. In addition, new Articles III, section 21(f)(6) of the Rules of Fair Practice will ensure that arbitration agreements clearly state the class action claims are specifically outside the scope of arbitration contracts entered into by members. Based on the above, the Commission believes that the rule change herein approved should promote the efficient resolution of these securities-based class action disputes.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26706 Filed 11-3-92; 8:45 am]

BILLING CODE 8010-01-M

[10] 15 U.S.C. 78o-3(b)(6) (1988).

[11] 17 CFR 200.30-3(a)(12) (1992).

[Release No. 34-31359; File No. SR-OCC-92-22]

Self-Regulatory Organization; The Options Clearing Corp.; Filing a Proposed Rule Change Relating to the Establishment of a Proprietary Cross-Margining Program With the Comex Clearing Association, Inc.

October 27, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on September 2, 1992, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow the implementation of a proprietary cross-margining program between OCC and the Comex Clearing Association, Inc. ("CCA").

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to establish a cross-margining program between OCC and CCA, which parallels the existing cross-margining programs between OCC and the Chicago Mercantile Exchange ("CME")[2] Board of Trade Clearing Corporation, and the Kansas City Board of Trade Clearing Corporation.

The List of Eligible Contracts, set forth as Exhibit A to the OCC/CCA Cross-Margining Agreement ("Agreement"), is tailored for the OCC/CCA Cross-Margining Program ("OCC/CCA XM Program"). CCA acts as the clearing organization for futures contracts and certain options on futures contracts for which the Commodity Exchange, Inc. ("COMEX") has been designated by the CFTC as the contract market. Currently, COMEX has applied to be the designated contract market for futures and options on the futures on the Eurotop 100 Index ("Eurotop"). CCA will be the clearing organization for those contracts.

The Commission has approved an application by the American Stock Exchange, Inc. ("AMEX") to trade options on the Eurotop.[3] OCC is the issuer, guarantor, and clearing agent for those options contracts. OCC staff has determined that because a high correlation exists between the futures, the options on the futures, and the options on the Eurotop that a cross-margining program would make sense and would be advantageous to both markets. OCC is also reviewing its other contracts, as is CCA, to determine what other products may have a high

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] The proposed program is similar in all respects to the non-proprietary cross-margining program between OCC and CME except for the minor differences described herein and for the agreement between OCC and CCA which delays the implementation of all provisions respecting non-proprietary cross-margining and prohibits such provisions from becoming effective until regulatory approval has been obtained from both the Commission and the Commodity Futures Trading Commission ("CFTC"). We have been advised by CCA that the CFTC had expressed its strong desire that CCA initially begin cross-margining on a proprietary basis and expand to a non-proprietary program at a later date.

[3] Securities Exchange Act Release No. 30463 (March 17, 1992), 57 FR 9284 [File Nos. SR-AMEX-90-25 and SR-AMEX 91-1] (order approving listing of options and warrants on the Eurotop 100 Index).

correlation and should be included in the OCC/CCA XM Program. Until such further determination is made, the only contracts that will be eligible for cross-margining in the OCC/CCA XM Program will be the Eurotop contracts.

The Agreement is substantially identical to the Amended and Restated Cross-Margining Agreement between OCC and CME.[4] Except for minor differences in the language and certain terms that are particular to CCA, the only differences in the Agreement are set forth below.

First, the Agreement does not make provisions for "XM Pledge Accounts". Accordingly, Section 3 of the Agreement has been left blank.

Second, as OCC has said in the past, OCC does not believe that Super Margin [5] is essential to cross-margining programs. CCA has advised OCC that it will not assess any Super Margin to the paired cross-margined account. Accordingly, all references to Super Margin in the Agreement (most notably in Section 5) and Exhibit F of the OCC/CME Agreement have been deleted.

Third, a new definition for Affiliate has been added to Section 1 to conform to the definition of Affiliate set forth in Amendment No. 3 to SR-OCC-90-2.[6] This new definition will also be proposed to each of OCC's other cross-margining partners for inclusion in the appropriate cross-margining agreements.

Fourth, the language respecting the valuation of securities in the valued securities program has been changed to allow the valuation to be consistent with OCC Rule 604(d). Currently, this language will require the valuation of common stock deposited as margin to be at 50% but will allow the valuation to automatically increase to 70% without the need for an amendment to the Agreement upon the Commission's approval of OCC proposed rule change relating to Rule 604(d).[7]

Fifth, CCA wanted to eliminate the Clearing Members' ability to choose it as the "Designated Clearing Organization" ("DCO"). Therefore, under section 2 of the Agreement and section 3 of the Clearing Member Agreements, only OCC can be appointed as the DCO. Accordingly, a change to Rule 702 respecting the Clearing Members' ability to designate either OCC or the Participating Commodities Clearing Organization as the DCO has been made to reflect the terms of the Agreement and the related Clearing Member Agreements.

Sixth, the arbitration procedures in Section 16 have been refined to a less cumbersome process.

Finally, the times reflected throughout the Agreement (most notably in section 7) have been changed to accommodate CCA's settlement times.

As previously stated, CCA has been asked by the CFTC to initiate a proprietary program and provide the CFTC staff with certain reports respecting the proprietary program before engaging in non-proprietary cross-margining. Accordingly, OCC and CCA entered into an agreement which would suspend implementation of the non-proprietary provisions until further regulatory approvals have been obtained.

The proposed rule change is consistent with the purposes and requirements of section 17A of the Act, as amended,[8] because it expands the implementation of the cross-margining to another significant group of market participants and thereby further enhances the safety of the clearing system while providing lower margin cost to participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR-OCC-92-22 and should be submitted by November 25, 1992.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26708 Filed 11-3-92; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

October 29, 1992.

The above named national securities exchange has filed applications with the

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[4] The OCC/CME cross-margining program was approved by the Commission in Securities Exchange Act Release Nos. 27296 (October 5, 1989), 54 FR 41195 [File No. SR-OCC-89-11] (order approving non-proprietary cross-margining program) and 29991 (December 3, 1991), 56 FR 61458 [File No. SR-OCC-90-01] (order approving proprietary cross-margining program).

[5] Super Margin is an additional amount of original margin imposed by some futures clearing organizations that is called for when there is a greater than normal risk to the clearing organization from the open positions of a clearing member.

[6] Securities Exchange Act Release No. 27749 (March 7, 1990) 55 FR 8276 [File Nos. SR-OCC-90-02 and SR-ICC-90-01] The rationale for the change in the definition is contained in the letter from James C. Yong, Vice President and Deputy General Counsel, OCC, to Jonathan Kallman, Associate Director, Division of Market Regulation, Commission (July 7, 1992).

[7] Securities Exchange Act Release No. 31169 (September 17, 1992) 57 FR 43041 [File No. SR-OCC-92-13] (notice of proposed rule change). SR-OCC-92-13 proposes to permit OCC to value deposits of debt and equity issues as margin at 70% of their current market value rather than at 50% as is currently the case.

[8] 15 U.S.C. 78q-1.

[9] 17 CFR 200.30-3(a)(12) (1992).

Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following security:

Dr. Pepper/Seven-Up Companies, Inc.
11½% Senior Subordinated Discount Notes due 2002 (File No. 7–9386)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–26754 Filed 11–3–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

October 29, 1992.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Allied Irish Bank Plc
American Depositary Shares, Ordinary Shares IR25p Par Value (File No. 7–9387)
Amax, Inc.
3.00 Cum. Conv. Pfd B Stock, $1 Par Value (File No. 7–9388)
American Capital Convertible Securities, Inc.
Common Stock, $1 Par Value (File No. 7–9389)
American Home Products Corporation
2.00 Cum. Conv. Pfd, $2.50 Par Value (File No. 7–9390)
American Water Works Company, Inc.
1.25 NV. Cum. Preferred A Stock (File No. 7–9391)
Enterprise Oil Plc
American Depositary Shares, Ordinary Shares (File No. 7–9392)
Philadelphia Electric Company
Dep. Shares, 7.96 Cum. Pfd Stock (File No. 7–9393)
Alabama Power Company
8.28 NV. Cum. Pfd. B Stock (File No. 7–9394)
Alabama Power Company
8.16 Cum. Pfd. C Stock (File No. 7–9395)
Allen Group, Inc.
1.75 NV. Cum. Conv. Pfd A Stock, No Par Value (File No. 7–9396)
BankAmerica Corporation
Dep. Shares 7 7/8 Pc Cum. Pfd Series M (File No. 7–9397)
Chemical Banking Corporation
Depositary Shares, 7.92 Pc. Cum. Stock, $1 Par Value (File No. 7–9398)
James River Corporation of Virginia
Depositary Shares, 8 1/4 Pc Cum Pfd Stock, $10 Par Value (File No. 7–9399)
Moorco International, Inc.
Common Stock, $.01 Par Value (File No. 7–9400)
Managed Municipal Portfolio II
Common Stock, $.001 Par Value (File No. 7–9401)
Acordia, Inc.
Common Stock, $1.00 Par Value (File No. 7–9402)
Cincinnati Gas & Electric Company
Cum. Pfd. Stock 7 3/8, $1.00 Par Value (File No. 7–9403)
Allied Irish Banks Plc
2.97 Non-Voting Preferred Stock (File No. 7–9404)
Great Western Financial Corporation
Depositary Shares 8.39 Pc Cum. Pfd. Stock, $1.00 Par Value (File No. 7–9405)
First Israel Fund, Inc.
Common Stock, $.01 Par Value (File No. 7–9406)
Nuveen Select Maturities Municipal Fund 2
Shares of Beneficial Interest, $.01 Par Value (File No. 7–9407)
Nuveen Premium Income Municipal Fund, 3
Common Stock, $.01 Par Value (File No. 7–9408)
Continental Can Company, Inc.
Common Stock, $.01 Par Value (File No. 7–9409)
Hyperion 1997 Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–9410)
Hyperion 2002 Term Trust, Inc.
Common Stock, $.01 Par Value (File No. 7–9411)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 20, 1992, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–26753 Filed 11–3–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–19067; 812–7871]

The New England Funds, et al.; Application

October 28, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The New England Funds (the "New England Trust"), TNE Funds Trust (the "TNE Trust"), Draycott Partners, Ltd. (the "Adviser"), and TNE Investment Services Corporation (the "Distributor").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from sections 18(f)(1), 18(g), and 18(i).

SUMMARY OF APPLICATION: Applicants seek an order that would permit the creation, issuance, and sale of two classes of shares representing interests in some or all of applicants' existing and future investment portfolios. The classes would be identical in all respects except for class designation, voting rights, exchange privileges, the allocation of certain expenses, the imposition of a front-end sales load, and minimum account size.

FILING DATES: The application was filed on February 14, 1992 and amended on July 24, 1992 and October 7, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving the applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 23, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service.

Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 399 Boylston Street, Boston, Massachusetts 02116.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272–3026, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. New England Trust and TNE Trust are each registered under the Act as an open-end management investment company. The New England Trust consists of nine series, including a newly-organized series called TNE International Equity Fund (the "International Equity Fund"). The TNE Trust currently consists of five series. Each individual series of a trust may be referred to as a "fund."

2. Applicants seek the relief requested for each registered open-end management investment company that currently is or in the future may be a part of the same "group of investment companies" (as defined in rule 11a–3 under the Act) as either trust. Only the International Equity Fund currently intends to offer Class A and Class B shares. Any other fund relying upon the order would do so in accordance with the representations and conditions of the order.

3. The Adviser, a registered investment adviser and wholly-owned subsidiary of New England Investment Companies, Inc. ("NEIC"), will serve as investment adviser for the International Equity Fund. Other NEIC subsidiaries will serve as investment advisers to the other funds. The Distributor, a registered broker-dealer and wholly-owned subsidiary of NEIC, serves as the principal underwriter for the trusts. Under a separate administrative services agreement, the Distributor also acts as the International Equity Fund's administrator, furnishing that fund with certain personnel, office space, facilities, and equipment necessary for the conduct of the fund's affairs.

4. The trustees of the New England Trust, including a majority of the independent trustees, have authorized the International Equity Fund to issue and sell Class A shares and Class B shares and have authorized the distribution plan relating to the Class A shares of that fund. Similar approval will be sought for other funds seeking to implement a dual distribution system.

5. The Class A shares will have a relatively low minimum investment requirement, and will be sold subject to a front-end load that may be reduced for large purchases and in certain other circumstances. In addition, Class A shareholders will be assessed an ongoing distribution fee under a distribution plan adopted by the relevant fund pursuant to rule 12b–1. The distribution fee will be based upon a percentage of the average daily net asset value of the Class A shares. Class A shares will be available to investors who are not eligible to purchase Class B shares.

6. The Class B shares will be available only to institutional investors such as tax-qualified employee benefit plans; endowments, foundations, and other tax-exempt organizations; insurance company separate accounts; and investment companies not affiliated with the Adviser. Class B shares would not be subject to a sales charge, and would have a much higher minimum investment requirement. The shares currently being offered are Class A shares.

7. Each Class A and Class B share will represent an interest in the same portfolio of investments, and will be identical in all respects, except that:

(a) Class A shares will bear a rule 12b–1 distribution fee, whereas Class B shares will not be subject to such a fee;

(b) Class A shares will bear a higher administrative services fee than the Class B shares;

(c) Class A shares will bear a higher transfer agency fee than Class B shares;

(d) Each class will bear the expenses of qualifying its shares under state "Blue Sky" laws and the costs of printing the prospectus and statement of additional information relating to the class;

(e) Only the Class A shares will have the right to vote with respect to the rule 12b–1 plan relating to such shares;

(f) Fund shares of a particular class will be exchangeable only for shares of the same class in another fund; and

(g) The classes will vary as to minimum account size and similar matters.

8. A fund's rule 12b–1 distribution plan will reimburse the Distributor for its expenses related to the sale of the fund's Class A shares. These expenses may include payments to dealers of record of the Class A shares, as well as the Distributor's other expenses in connection with the distribution of Class A shares and the servicing of Class A shareholder accounts. The trustees of the relevant trust will receive rule 12b–1 reports relating to fees charged to Class A shares. For purposes of such reports, any distribution expenses attributable to the sale of both classes of shares of a particular fund will be allocated to each class of shares based upon the ratio which the sales of each class of shares of such fund bears to the sales of both classes combined.

9. The costs of distributing Class B shares (which on average are expected to be substantially lower, as a percentage of the amount invested, than the cost of distributing Class A shares), will be borne by each fund's adviser, the Distributor, or their corporate affiliates out of their own assets (which may include profits from providing management and administrative services to the funds, but will not include revenues received by the Distributor as distribution fees from Class A shares).

10. The administrative services fee for the International Equity Fund is proposed to be charged at an annual rate of .10% of the average daily net assets of the Class A shares and .05% of the average daily net assets of the Class B shares. This fee is payable to the Distributor pursuant to an administrative services agreement with the fund, in consideration of certain administrative personnel, facilities, and services furnished by the Distributor, including shareholder relations services and supervision of the fund's transfer agent. These services do not include investment advisory services or distribution services, which are provided under the fund's investment advisory and distribution agreements.

11. Each class of shares will bear the transfer agency, state securities qualification ("Blue Sky"), and prospectus printing costs attributable to it. Applicants represent that these allocations will permit each class to bear its own costs.

12. The total asset value of all outstanding shares of both classes will be computed on a *pro rata* basis for each fund regardless of class, and all expenses incurred by a fund will be allocated between the classes of shares based on the relative aggregate net asset value of each class, except for distribution fees, administrative services fees, transfer agency fees, and Blue Sky and prospectus costs ("Identifiable Class Expenses"). Because of the higher Identifiable Class Expenses to be paid by the holders of Class A shares, the net income attributable to and the dividends

payable on Class A shares will be lower than the net income attributable to and the dividends payable on Class B shares. To the extent that a fund has undistributed net income, the net asset value of the Class A shares may be lower than the net asset value of the Class B shares. Dividends and other distributions paid to each class of shares of a fund will, however, will be declared on the same days and at the same times, and except for Identifiable Class Expenses, will be in the same manner.

13. With the implementation of the dual class arrangement, it is contemplated that Class A shares of each fund will be exchangeable only for Class A shares of the other funds. It has not yet been determined whether Class B shares would be exchangeable at all, but if so, they would be exchangeable only for Class B shares of the other funds.

Applicants' Legal Analysis

1. Applicants request an exemptive order because the different expenses and dividends of a fund's Class A and Class B shares might be regarded as creating a class of stock with "priority over any other class as to distribution of assets or payment of dividends" within the meaning of section 18(g) of the Act. Section 18(f)(1) of the Act generally prohibits a registered open-end company from issuing or selling any class of senior security. Moreover, the fact that Class A shareholders would enjoy exclusive voting rights with respect to their rule 12b–1 plan is not consistent with the requirement in section 18(i) that shares of a registered management company have equal voting rights.

2. Applicants believe that the proposed allocation of Identifiable Class Expenses and voting rights is equitable, and would not discriminate against any group of shareholders. Class A shareholders would benefit from the retail services and distribution arrangements provided, as well as the economies of scale and portfolio management advantages that may result from combining retail and institutional investors' assets in a single, larger portfolio. Class B shareholders also would benefit from these economies of scale and portfolio management advantages, without having to bear the higher costs of distribution and shareholder service arrangements. Because the other rights and privileges of both classes of shares of a fund are substantially identical, the possibility that their interests would conflict is remote.

3. Applicants maintain that the proposed arrangement does not involve borrowings, and does not affect the fund's existing assets or reserves. Nor will the proposed arrangement increase the speculative character of the funds' shares, since all such shares would participate *pro rata* in all of a fund's income and expenses (with the exception of the Identifiable Class Expenses, which will disproportionately reduce the net income of the two classes).

Applicants Conditions

Applicants agree that the order of the Commission granting the requested relief shall be subject to the following conditions: [1]

1. The Class A shares and Class B shares will represent interests in the same portfolio of investments of a fund, and be identical in all respects, except as set forth below. The only differences between Class A shares and Class B shares of the same fund will relate solely to:

(a) The impact of the rule 12b–1 distribution plan fee payments made by the Class A shares and the different administrative services fee, the transfer agency costs, and Blue Sky and prospectus costs borne by the Class A and Class B shares, and any other incremental expenses subsequently identified that should be properly allocated to one class which shall be approved by the Commission pursuant to an amended order,

(B) The fact that only Class A shares will have voting rights with respect to matters which pertain to the Class A rule 12b–1 distribution plans,

(c) The different exchange privileges of each class,

(d) The designation of each class of shares of a fund,

(e) The different minimum investment amounts, and

(f) The absence of a sales load for Class B shares.

2. The trustees of the relevant fund, including a majority of the independent trustees, will approve the dual class arrangement prior to the implementation of the dual class arrangement by a particular fund. The minutes of the meetings of the trustees regarding the deliberations of the trustees with respect to the approvals necessary to implement the dual class arrangement will reflect in detail the reasons for the trustees' determination that the proposed dual class arrangement is in the best interests of both the funds and their respective shareholders and such minutes will be available for inspection by the Commission staff.

3. The Identifiable Class Expenses to be allocated to a particular class of shares of a fund and any subsequent changes thereto will be reviewed and approved by a vote of the trustees of the relevant trust, including a majority of trustees who are not interested persons of the trust. Any person authorized to direct the allocation and disposition of monies paid or payable by the fund to meet Identifiable Class Expenses shall provide to the trustees, and the trustees shall review, at least quarterly, a written report of the amounts so expended and the purposes for which such expenditures were made.

4. On an ongoing basis, the trustees of the relevant trust, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the fund for the existence of any material conflicts between the interests of the classes of shares. The trustees, including a majority of the independent trustees, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. Each fund's adviser and distributor will be responsible for reporting any potential or existing conflicts to the trustees. If a conflict arises, the fund's adviser and distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

5. The trustees of each trust will receive quarterly and annual statements concerning distribution expenditures complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale of Class A shares will be used to justify any distribution fee charged to that class. Expenditures not related to the sale of Class A shares will not be presented to the trustees to justify rule 12b–1 distribution fees charged to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent trustees in the exercise of their fiduciary duties.

6. Dividends paid by a fund with respect to its Class A shares and Class B shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that rule 12b–1 distribution fee payments relating to the Class A shares

[1] One of the conditions in the application (condition 5), which relates to shareholder approval of rule 12b–1 plans, is no longer required for exemptive relief permitting multiple classes of shares. Any order issued granting such relief would not be subject to this condition. The conditions in this notice have been renumbered to reflect the deletion of the condition.

will be borne exclusively by that class and that each class will bear its own administrative services fee, transfer agency fees, and Blue Sky and prospectus costs.

7. The methodology and procedures for calculating the net asset value and dividends and distributions of the classes and the proper allocation of expenses between the classes has been reviewed by an expert (the "Expert") who has rendered a report to applicants, a copy of which is attached as Exhibit B of the application, stating that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the funds that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b) (1) of the Act. The work papers of the Expert with respect to such reports, following request by the funds, which the funds agree to provide, will be available for inspection by the Commission staff upon written request by a senior member of the Division of Investment Management or a regional office of the Commission, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrator or Associate and Assistant Regional Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a System and Certain Compliance Tests" as defined and described in SAS No. 44 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the classes of shares and the proper allocation of expenses between the classes of shares and this representation has been concurred with by the Expert in the initial report referred to in condition (7) above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition (7) above. Applicants agree to take immediate corrective measures if the Expert, or appropriate substitute Expert, does not so concur in the ongoing reports.

9. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the trustees of the trusts with respect to the dual distribution arrangement will be set forth in guidelines which will be furnished to the trustees.

10. The Distributor will adopt compliance standards as to when each class of shares may appropriately be sold to particular investors. Applicants will require all persons selling shares of the funds to agree to conform to these standards.

11. Each fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, deferred sales loads, and exchange privileges applicable to both Class A and Class B shares in every prospectus relating to such fund, regardless of whether both such classes are offered through each prospectus. Each fund will disclose the respective expenses and performance data applicable to Class A and Class B shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to either class of shares, it will also disclose the respective expenses and/or performance data applicable to both classes. The information provided by applicants for publication in any newspaper or similar listing of the fund's net asset value and public offering price will present each class of shares separately.

12. Applicants acknowledge that the grant of the exemptive order requested by the application will not imply Commission approval, authorization, or acquiescence in any particular level of payments that the fund may make pursuant to rule 12b–1 distribution plans in reliance on the exemptive order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–26704 Filed 11–3–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25666; International Series Release No. 480]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 2, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 18, 1992, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Enserch Corporation (31–898)

Enserch Corporation ("Applicant"), 300 South St. Paul Street, Dallas, Texas 75201, a Texas public-utility company, has filed an application in connection with the proposed acquisition of an interest in one or more to-be-formed Argentine public-utility companies (each an "Acquired Utility" and collectively, "Acquired Utilities"). Applicant requests orders under section 3(b) of the Act granting an unqualified exemption to (1) Acquired Utilities, (2) a to-be-formed subsidiary company of Enserch ("Subsidiary"), and (3) a to-be-formed holding company ("Holding Company"), that will acquire the interest in Acquired Utilities.[1]

Applicant is a public-utility company as a result of its natural gas distribution business, conducted through its Lone Star Gas Company division ("Lone Star"). Lone Star owns and operates some 32,000 miles of interconnected natural gas pipelines that transport,

[1] The application states that the actual structure has not yet been finalized; therefore, Applicant requests an exemption under section 3(b) for any other entity in which Applicant may acquire an interest in connection with the proposed transaction.

gather and distribute gas to approximately 1.22 million customers in about 500 cities across the State of Texas. Applicant had revenues and assets of $2.835 billion and $3.163 billion in 1991, respectively.

As part of its privatization of its state-owned gas utility system, the Argentine government has authorized the sale of an interest in Acquired Utilities. Applicant has reached an agreement with an Argentine company ("Sponsor") with respect to joining the Sponsor and others ("Consortium") in the bidding process for one or more Acquired Utilities. The Subsidiary will provide technical assistance in connection with the evaluation and operation of Acquired Utilities, for which it will be compensated based on negotiated fees.

If the bid is successful, the Consortium will form the Holding Company to hold shares of Acquired Utilities. The Subsidiary and the Sponsor will hold 15% and 35–40% of the capital stock of the Holding Company, respectively. Although the actual amount of Applicant's investment will not be determined until a formal bid is made, the application states that the maximum investment will not exceed approximately 1% of the consolidated assets of Applicant as of the end of 1991.

Each Acquired Utility will be a "gas utility company" as defined in section 2(a)(4). [2] As a result, Applicant, the Subsidiary and the Holding Company will each be a "holding company" within the meaning of section 2(a)(7) with respect to such Acquired Utility, and such Acquired Utility will be a direct or indirect "subsidiary company" of each within the meaning of section 2(a)(8). The Subsidiary will also be a "gas utility company" within the meaning of section 2(a)(4) because it will operate Acquired Utilities.

Applicant requests orders of exemption under section 3(b) for Acquired Utilities, the Holding Company, the Subsidiary and any other entity in which Applicant may acquire an interest in connection with the proposed transaction. The application states that neither Acquired Utilities nor the Subsidiary nor the Holding Company will derive any part of its income, directly or indirectly, from sources within the United States, and will not operate, or have any subsidiary company that operates as a public-utility company in the United States. The application also states that, if unqualified exemptions are granted, Applicant, the Holding Company and the Subsidiary will rely upon rule 10(a)(1) to provide an exemption insofar as each is a holding company; and no approval will be required under section 9(a)(2) in connection with the proposed acquisition pursuant to rule 11(b)(1).[3]

[2] The application states that the Holding Company may be deemed to be a "gas utility company" insofar as it may be viewed as operating Acquired Utilities.

Houston Industries Incorporated (70–8058)

Houston Industries Incorporated ("HII"), Five Post Oak Park, 4400 Post Oak Parkway, Houston, Texas 77027, a Texas public-utility holding company exempt from registration under section 3(a)(1) of the Act pursuant to rule 2, has filed an application in connection with the proposed acquisition of an interest in Edelap S.A. ("Edelap"), a newly organized Argentine electric public-utility company. HII requests an order under section 3(b) of the Act granting an unqualified exemption to: (1) Houston Argentina S.A., a newly organized and wholly owned subsidiary company of HII ("HII Subsidiary") that will acquire up to a 25.5% ownership interest in Edelap through Compania de Inversiones en Electricidad S.A., a partially owned Argentine subsidiary company ("Argentine Holding Company"), and (2) Edelap and a to-be-formed Argentine subsidiary company of Argentine Holding Company that will own the generation assets (together with Edelap, "Acquired Utility").[4] Alternatively, HII requests an order of the Commission approving the proposed acquisition of an interest in Acquired Utility under sections 9(a)(2) and 10 and granting exemptions from all provisions of the Act, except section 9(a)(2), to HII Subsidiary and Argentine Holding Company under section 3(a)(5).

HII has one public-utility company subsidiary, Houston Lighting & Power Company ("HL&P"), that is engaged in the generation, transmission, distribution and sale of electric energy at retail and wholesale within the State of Texas. HII also owns all of the capital stock of several nonutility subsidiary companies. HII and HL&P reported operating revenues of approximately $4.44 billion and $3.67 billion, respectively, in 1991.

As part of its privatization program, the Argentine government has authorized Servicios Electricos del Gran Buenos Aires Sucursal La Plata ("SEGBA La Plata"), a state-owned corporation that currently serves the electricity needs of the City of La Plata and the surrounding area, to sell a 51% interest in Acquired Utility. HII intends to participate with Techint Compania Tecnica Internacional S.A.C.I. ("Techint"), a privately owned Argentine company, in a bid for the 51% interest.[5] If the bid is successful, HII and Techint will acquire the ownership interest through Argentine Holding Company, in which HII Subsidiary will hold an ownership interest not exceeding 50%.[6] In addition, it is contemplated that HII Subsidiary will provide management and technical services to Acquired Utility.

Although the actual amount of HII's investment will not be determined until a formal bid is made, the application states that HII will not invest more than $50 million. HII's investment will be made in cash derived from HII's general corporate funds through borrowings under established lines of credit or through other short-term borrowings. HII represents that: (1) no funds will be provided by HL&P (except to the extent the HII's general corporate funds may be partially derived from cash dividends paid on HL&P's outstanding common stock); (2) neither HII nor any non-Argentine affiliate company of HII will provide, directly or indirectly, any guaranty or other form of credit support with respect to any indebtedness that may be incurred by HII Subsidiary, Argentine Holding Company and/or Acquired Utility; and (3) there will be no business transactions between Acquired Utility and HII and/or any non-Argentine affiliate company of HII, other than the provision of management and technical services to Acquired Utility by employees of HL&P, for which HL&P will be appropriately compensated.

Acquired Utility will be an "electric utility company" as defined in section 2(a)(3). As a result, HII, HII Subsidiary, Techint and Argentine Holding Company will each be a "holding

[3] The application states that the acquisition of one Acquired Utility would not require Commission approval because Applicant is not currently an affiliate of any public-utility company. The application further states that reliance on rule 11(b)(1) is required in connection with the acquisition of additional Acquired Utilities.

[4] The application states that the competitive bidding rules require that the generation assets of Edelap be subsequently conveyed to a separate entity by the successful bidder.

[5] By order dated July 24, 1992 (Holding Co. Release No. 25590), the Commission had granted exemptions under section 3(b) in connection with HII's proposed participation in the bidding for two other state-owned electric distribution systems in Argentina. The application states that HII was not the successful bidder in either case.

[6] Techint will own the remaining 50% interest. The application states, however, that an Argentine financial institution has expressed an interest in participating with Techint and HII in the acquisition, in which event the various indirect percentage interests of Techint, HII and HII Subsidiary in Acquired Utility will be proportionately reduced.

company" within the meaning of section 2(a)(7) with respect to Acquired Utility, and Acquired Utility will be a direct or indirect "subsidiary company" of each within the meaning of section 2(a)(8). HII Subsidiary will also be an "electric utility company" within the meaning of section 2(a)(3) because it will operate Acquired Utility.

HII requests an order granting exemptions under section 3(b) to Acquired Utility and HII Subsidiary. The application states that neither Acquired Utility nor HII Subsidiary will derive a material part of its income, directly or indirectly, from sources within the United States, or operate, or have any subsidiary company that operates, as a public-utility company in the United States. The application also states that, if unqualified exemptions are granted, Argentine Holding Company and HII Subsidiary will rely upon rule 10(a)(1) to provide an exemption insofar as each is a holding company, and HII and HII Subsidiary will rely on rule 11(b)(1) to provide an exemption from the approval requirements of sections 9(a)(2) and 10 to which HII and HII Subsidiary would otherwise be subject.

If unqualified orders of exemption are not granted, HII requests authorization under sections 9(a)(2) and 10 to acquire up to a 50% interest in Argentine Holding Company through HII Subsidiary, and to acquire up to a 25.5% interest in Acquired Utility through Argentine Holding Company. HII also requests orders under section 3(a)(5) exempting HII Subsidiary and Argentine Holding Company from all provisions of the Act, except section 9(a)(2).[7]

The application states that one-half of SEGBA La Plata's total revenues for its fiscal 1991 year (the most recent financial data available) were equivalent to approximately $62.5 million. Based on a 25.5% interest in Acquired Utility, HII's pro forma share of such revenues would be $15.9 million (or approximately 0.4% of HII's consolidated revenues in 1991).[8] HII states that it will continue to qualify as an exempt holding company under section 3(a)(1) after the acquisition.

HII has provided a copy of the application to the Public Utility Commission of Texas ("PUC"). In addition, HII has asked the PUC to certify to this Commission pursuant to section 33 of the Act that the PUC has the authority and resources to protect the ratepayers of HL&P and that it intends to exercise such authority. HII states that it will file with this Commission copies of all material contracts to which HII Subsidiary, Argentine Holding Company and/or Acquired Utility become parties, including, without limitation, any operating agreements, agreements for the provision of management and technical assistance, power supply agreements and shareholders' agreements.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26833 Filed 11-2-92; 11:22 am]

BILLING CODE 8010-01-M

[7] The application states that Techint, as a foreign entity, will rely for exemption as a holding company upon rule 5, since it does not own any utility assets located within the United States and has no subsidiary company or affiliate owning any assets so located.

[8] Exhibit H to the application, filed on a confidential basis pursuant to rule 104(b), states the projected minimum annual revenue of Acquired Utility and minimum rate of return on HII's proposed investment.

[Investment Company Act Rel. No. 19063; 812-8118]

The Rushmore Fund, Inc., et al.; Application

October 28, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: The Rushmore Fund, Inc., Fund for Tax-Free Investors, Inc., Fund for Government Investors, Inc., and American Gas Index Fund, Inc., and all future registered investment companies and series thereof for which Money Management Associates or its future direct or indirect subsidiaries or affiliates acts as investment adviser (the "Funds"); and Money Management Associates (the "Adviser").

RELEVANT ACT SECTIONS: Exemption requested under sections 6(c) and 17(d) and rule 17d-1

SUMMARY OF APPLICATION: Applicants seek a conditional order permitting the Funds to deposit their daily uninvested cash balances into a single joint account to be used to enter into repurchase agreements.

FILING DATE: The application was filed on October 14, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 23, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 4922 Fairmont Avenue, Bethesda, Maryland 20814.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Law Clerk, at (202) 272-7027, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Each of the Funds is a registered management investment company. The Adviser, a registered investment adviser, serves as investment adviser to the Funds. The Funds are authorized by their investment policies and limitations to invest in repurchase agreements.

2. Currently, the Funds separately invest daily uninvested cash balances in federal securities, overnight repurchase agreements with a bank or major brokerage house, or other similar short-term contracts in order to earn additional income. Each morning the Adviser begins negotiating the interest rate for repurchase agreements for that day and lining up the government obligations required as collateral. Generally, some portion of the assets in the respective account of each Fund is received too late, or is too small, to be effectively invested in a separate transaction. Further, because each Fund must separately pursue, secure, and implement such investments, there is a duplication of effort that results in certain inefficiencies and may limit the return which some or all Funds can achieve.

3. Applicants seek a conditional order permitting the Funds to deposit their daily uninvested cash balances into a single joint account, the daily balance of which would be used to enter into one or more overnight (or over-the-weekend or over-the-holiday) repurchase agreements. The requested order will maximize the return by minimizing

economic and administrative efficiencies by allowing the Funds to enter into large repurchase agreements.

4. Each repurchase agreement will be made by calling a government securities dealer and indicating the rate of interest and size of the desired repurchase agreement. Particular U.S. Government obligations to be held as collateral will then be identified and the Funds' custodian bank will be notified. The securities will be wired to the account of the custodian bank at the proper Federal Reserve Bank, transferred to a sub-custodian account of the Funds at another qualified bank, or redesignated and segregated on the records of the custodian bank if the custodian bank is already the record holder of the collateral for the repurchase agreement. The Funds do not enter into repurchase agreements with the custodian bank, except when cash is received very late in the business day and would otherwise be unavailable for investment at all.

5. Each of the Funds has established the same systems and standards, including quality standards for issuers of repurchase agreements and for collateral and requirements that the repurchase agreements will be at least 102 percent collateralized at all times. Identical systems and standards will be adopted by any future funds which invest in the proposed joint account.

Applicants' Legal Conclusions

1. Section 17(d) makes it unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, to effect any transaction in which such registered investment company is a joint or a joint and several participant with such person in contravention of rules and regulations which the SEC prescribes for the purpose of preventing participation by such company on a basis different from or less advantageous than that of other participants.

2. Rule 17d–1 provides that no affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, shall participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which such registered investment company is a participant unless an application regarding such joint arrangement has been filed with the SEC and granted an order. In passing upon such applications, the SEC will consider whether the investment company's participation in the proposed joint enterprise or arrangement is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Each Fund might be deemed an affiliated person of each other Fund under section 2(a)(3) of the Act. Each Fund, by participating in the proposed account, and the Adviser, by managing the proposed account, could be deemed to be a "joint participant" in a "transaction" within the meaning of section 17(d) and the proposed account could be deemed to be a "joint enterprise or other joint series issue arrangement" within the meaning of rule 17d–1.

4. The proposed account will not be distinguishable from any other account maintained by Fund with its custodian bank except that monies from the Fund could be deposited in it on a commingled basis. The sole function of this account will be to provide a convenient way of aggregating what otherwise would be the individual daily transactions for each Fund necessary to manage the daily uninvested cash balances of each Fund. Each Fund will participate in the account on the same basis as every other Fund. The Adviser will have no monetary participation in the account, but will be responsible for investing amounts in the account, establishing control procedures, and ensuring the equal treatment of each Fund. The proposed method of operating the account will not result in any conflicts of interest between any of the Funds or between a Fund and the Adviser.

5. The Funds will benefit from the proposed arrangement because, on any given day and under most market conditions, it is possible to negotiate a rate of return on large repurchase agreements which is greater than the rate of return available for smaller repurchase agreements. In addition, by reducing the number of trade tickets, repurchase transactions will be simplified and the opportunity for errors will be reduced. Each Fund will also benefit from the fact that an institution entering into a very large repurchase agreement is almost always able and willing to increase the amount covered by such agreement near the end of the day, which possibility may not exist with smaller repurchase agreements. Moreover, without a joint account, some Funds may find that they will be unable to invest in repurchase agreements because their respective daily cash balances would not meet the minimum investment requirement for a repurchase agreement.

6. Applicants believe that granting the requested relief would be necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants further believe that participation in the proposed joint account by each Fund would not be on a basis different from or less advantageous than that of any other participant. Applicants thus believe that the criteria of sections 6(c) and 17(d) and rule 17d–1 for issuance of the requested order have been satisfied.

Applicants' Conditions

As express conditions to obtaining an order granting the requested relief, applicants agree that the joint repurchase account will operate as follows:

1. A separate custodian cash account will be established into which each Fund will cause its uninvested net cash balances to be deposited daily. The joint account will not be distinguishable from any other accounts maintained by a Fund with its custodian bank except that monies from a Fund will be deposited on a commingled basis. The account will not have any separate existence which will have indicia of a separate legal entity. The sole function of the account will be to provide a convenient way of aggregating individual transactions which would otherwise require daily management by each Fund of its uninvested cash balances.

2. Cash in the account will be invested solely in repurchase agreements with a duration not to exceed one business day collateralized by suitable U.S. Government obligations, *i.e.*, obligations issued or guaranteed as to principle and interest by the government of the United States or by any of its agencies or instrumentalities, and satisfying the uniform standards set by the Funds for such investments.

3. All securities held by the joint account will be valued on an amortized cost basis.

4. Each Fund relying upon rule 2a–7 under the Act for valuation of its net assets on the basis of amortized cost will use the average maturity of the repurchase agreements purchased by the Funds participating in the account for the purpose of computing the Fund's average portfolio maturity with respect to the portion of its assets held in such account on that day.

5. In order to assure that there will be no opportunity for one Fund to use any part of a balance of the account credited to another Fund, no Fund will be allowed to create a negative balance in the account for any reason, although a

Fund will be permitted to draw down its entire balance at any time; each Fund shall retain the sole rights of ownership of any of its assets, including interest payable on the assets invested in the account.

6. Each Fund will participate in the net income earned or accrued in the account on the basis of the percentage of the total amount in the account on any day represented by its share of the account.

7. The Adviser will administer the investment of the cash balance in and operation of the account as part of its duties under its existing or future investment advisory contract with each Fund and will not collect any additional fees for management of the account. The Adviser will collect its fees based upon the assets of each separate Fund as provided in each respective investment advisory agreement.

8. Each Fund's decision to invest in the account shall be solely at the Fund's option and no Fund shall be obligated to invest or maintain any minimum amount in the account.

9. Each Fund's investment in the account shall be documented daily on the books of each fund as well as on the Custodian's books.

10. All repurchase agreements will have an overnight, over-the-weekend, or over-the-holiday duration, and in no event a duration of more than seven days.

11. The Funds will enter into an agreement with each other to govern the arrangements in accordance with the foregoing principles.

12. The administration of the account will be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

13. The Directors/Trustees of the Funds participating in the joint account shall evaluate the joint account arrangement annually, and shall continue the account only if they determine that there is a reasonable likelihood that the account will benefit the Funds and their shareholders.

14. All joint repurchase agreement transactions will be effected in accordance with Investment Company Act Release No. 13005 (February 2, 1983) and with other existing and future positions taken by the SEC or its staff by rule, interpretive release, no-action letter, any release proposing, reproposing, or adopting any new rule, or any release proposing, reproposing, or adopting any amendments to any existing rule.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–26702 Filed 11–3–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19062; 812–8082]

Voyageur Tax Free Funds, Inc., et al.; Application

October 28, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Voyageur Tax Free Funds, Inc., Voyageur Intermediate Tax Free Funds, Inc., Voyageur Insured Funds, Inc., Voyageur Funds, Inc., Voyageur Growth Stock Fund, Inc., Voyageur Colorado Tax Free Fund, Inc., Voyageur Investment Trust, and all other registered open-end investment companies or series thereof for which Voyageur Fund Managers ("Fund Managers") in the future serves as investment adviser that are in the same group of investment companies as defined in rule 11a–3 under the Act (collectively, the "Funds"), and Voyageur Fund Distributors, Inc. ("Fund Distributors").

RELEVANT ACT SECTIONS: Conditional order requested under section 6(c) of the act for an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek a conditional order that would permit applicants to impose a contingent deferred sales charge ("CDSC") on redemptions of Fund shares sold with no initial sales charge because of a volume discount, and to waive the CDSC under certain circumstances.

FILING DATE: The application was filed on September 8, 1992, and an amendment thereto was filed on October 15, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 23, 1992, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, 100 South Fifth Street, Suite 2200, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Robert A. Robertson, Staff Attorney, at (202) 504–2283, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. The Funds are open-end management investment companies registered under the Act. Fund Managers is the investment adviser for the Funds, and Fund Distributors is their principal underwriter.

2. Each of the Funds offers its shares to the public at net asset value plus a front-end sales load ("FESL"). Fund Distributors receives the FESL with respect to each sale and reallows all or a substantial portion thereof to banks and broker-dealers that have entered into selling agreements with Fund Distributors. Each of the Funds (other than the Voyageur Colorado Tax Free Fund) assists in financing the distribution of its shares pursuant to a plan adopted in accordance with rule 12b–1 under the Act (the "12b–1 Plan"). Under each Fund's 12b–1 Plan, the Fund is authorized to pay Fund Distributors a distribution fee based on a percentage of the average daily net assets of the Fund.

3. Under the proposed CDSC arrangement, the Funds plan to eliminate the FESL on sales of shares in the amount of $1 million or more, and instead impose a CDSC of up to 1% on those shares that are redeemed within a period of up to 24 months after their purchase (the "CDSC Period"). The CDSC Period may be shorter than 24 months at applicants' discretion; but it may not be longer than 24 months.

4. In calculating the amount of the CDSC, the CDSC will be imposed on the lesser of the net asset value of shares subject to the CDSC at the time of purchase, or the net asset value of such shares at the time of redemption. The CDSC will not be applied to (i) amounts attributable to increases in the value of a shareholder's account due to capital

appreciation; (ii) shares acquired through reinvestment of income dividends or capital gain distributions; or (iii) shares held for more than 24 months. In determining whether the CDSC is payable with respect to any redemption, it will be assumed that shares that are not subject to the CDSC are redeemed first.

5. Applicants intend to waive the CDSC with respect to each of the following classes of purchasers: (a) officers and directors of the Funds; (b) officers, directors and full-time employees of Fund Managers, Voyageur Asset Management Group, Inc. (a general partner of Fund Managers), Fund Distributors, Allied Group, Inc., Allied Mutual Insurance Company and Marquette Fund Advisors, Inc. (a general partner of Fund Managers), and officers, directors and full-time employees of parents and subsidiaries of the foregoing companies; (c) spouses and lineal ancestors and descendants of the officers, directors and employees referenced in clauses (a) and (b) and lineal ancestors and descendants of their spouses; (d) registered representatives and other employees of banks and dealers that have selling agreements with Fund Distributors and parents, spouses and children under the age of 21 of such registered representatives and other employees; (e) tax-qualified employee benefit plans for employees of Fund Managers, Voyageur Asset Management Group and Fund Distributors; (f) trust companies and bank trust departments for funds held in a fiduciary, agency, advisory, custodial or similar capacity, (g) employee benefit plans qualified under section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"), and custodial accounts under section 403(b)(7) of the Code; (h) any state, county or city, or any instrumentality, department, authority or agency thereof, which is prohibited by applicable investment laws from paying a sales charge or commission in connection with the purchase of shares of any registered investment company; (i) Partners and full-time employees of the Funds' general counsel; and (j) Private account clients of Fund Managers. Applicants also intend to waive the CDSC on redemption of shares in the event of the death or disability of a Fund's shareholder within the meaning of section 72(m)(7) of the Code.

6. Applicants further intend to waive the CDSC in connection with purchases of Fund shares funded by the proceeds from the redemption of shares of any unrelated open-end investment company that charges an FESL, provided there was no deferred sales load, fee or other charge imposed in connection with such redemption. In order to exercise this privilege, the order for a Fund's shares must be received by the Fund within 60 days after the redemption of shares of the unrelated investment company. Prior to waiving the CDSC in this context, the Funds and Fund Distributors will take such steps as may be necessary to determine that the shareholder had not paid a deferred sales load, fee or other charge in connection with such redemption. These steps include, without limitation, requiring the shareholder to provide a written representation that no deferred sales load, fee or other charge was imposed in connection with the redemption and, in addition, either requiring the shareholder to provide an activity statement that supports the shareholder's representation or reviewing a copy of the current prospectus of the unrelated investment company and determining that the company does not impose a deferred sales load, fee or other charge in connection with the redemption of its shares.

7. The CDSC will not be imposed at the time of an exchange of one Fund's shares for shares of another Fund, but the acquired Fund shares will continue to be subject to the CDSC and to the CDSC Period applicable to the Fund shares being exchanged therefor. Additionally, the CDSC will not be imposed at the time that Fund shares subject to the CDSC are exchanged for shares of any Fund offered to the public without the imposition of a FESL or a CDSC ("No-Load Funds") or at the time these No-Load Fund shares are re-exchanged for shares of any Fund subject to a CDSC; however, the shares acquired will remain subject to the CDSC.

8. Fund Distributors intends to provide a *pro rata* refund, out of its own assets, of any CDSC paid in connection with a redemption of any Fund's shares if, within 90 days of such redemption, all or any portion of the redemption proceeds are reinvested in shares of one or more of the Funds. A FESL will not be imposed on such a reinvestment. However, the reinvestment will be subject to the same CDSC to which such amount was subject prior to the redemption—with the exception that the CDSC Period will be extended by the number of days between the redemption and the reinvestment.

Applicants' Legal Analysis

1. Section 2(a)(32) defines a "redeemable security" as "any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer * * * is entitled (whether absolutely or only out of surplus) to receive approximately his proportionate share of the issuer's current assets, or the cash equivalent thereof." In addition, section 5(a)(1) defines an "open-end company," in relevant part, as a management company that offers for sale any redeemable security of which it is the issuer. Applicants contends that the CDSC will in no way restrict a shareholder from receiving his or her proportionate share of the current net assets of any Fund, but merely will defer the deduction of a sales charge and make it contingent upon an event that may never occur. However, to avoid any question regarding whether the CDSC would cause shares of any Fund not to be "redeemable securities," thereby jeopardizing the Fund's status as an open-end management company, applicants seek relief from section 2(a)(32) to the extent necessary to impose the CDSC.

2. Section 2(a)(35) defines "sales load" as "the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer * * *" Applicants believe that the CDSC is consistent with the intent of the section 2(a)(35) definition to describe charges used to pay for sales of an investment company's shares. But for the timing of the imposition of the charge, the CDSC clearly would come within that definition. However, because the timing of the deduction might be deemed to take the CDSC outside the definition of sales charge, applicants seek an exemption from the provisions of section 2(a)(35) to the extent necessary to implement the CDSC.

3. Section 22(c) and rule 22c–1 thereunder require a registered investment company issuing redeemable securities to redeem those securities at a price based on the current net asset value of the securities that is next computed after receipt of the tender of the securities for redemption. When a redemption of Fund shares subject to the CDSC is effected, the price of the shares on redemption will be based on their current net asset value. The CDSC merely will be deducted from the redemption proceeds in arriving at the shareholder's net proceeds payable on redemption. However, to avoid any possible questions about whether such a redemption would be at a price based on current net asset value, applicants seek relief from section 22(c) and rule

22c-1 to the extent necessary to permit the implementation of the CDSC.

4. Section 22(d) prohibits an investment company registered under the Act from selling its redeemable securities other than at a current public offering price described in the company's prospectus. Rule 22d-1 exempts a registered investment company from the provisions of section 22(d) to the extent necessary to permit the sale of those securities to particular classes of investors or in various kinds of transactions at prices that reflect scheduled variations in, or elimination of, the sales load. The requested exemptive relief would be consistent with the policies underlying rule 22d-1 because each Fund will fully disclose the CDSC and associated waivers in its prospectus and Statement of Additional Information. Applicants seek an exemption from section 22(d) to the extent necessary to implement the CDSC and waivers thereof as described above.

5. Section 6(c) provides in part that, upon application, the SEC may conditionally exempt any transaction from the provisions of the Act to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested exemptions meet the standards of section 6(c).

Applicants' Condition

Applicants agree that the exemptive order requested herein will be subject to the following condition:

Applicants agree to comply with the provisions of proposed rule 6c-10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as currently proposed and as it may be reproposed, adopted or amended.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-26705 Filed 11-3-92; 8:45 am]

BILLING CODE 8010-01-M

STATE DEPARTMENT

[Public Notice 1712]

Overseas Security Advisory Council; Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on Tuesday and Wednesday, November 17–18, 1992 at 8:30 a.m. at the U.S. Department of State, Washington, DC. Pursuant to section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b(c) (1) and (4), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522-1003, phone: 703/204-6185.

Dated: October 23, 1992.

Clark Dittmer,

Director of the Diplomatic Security Service.

[FR Doc. 92-26701 Filed 11-3-92; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF STATE

[Public Notice 1716]

Shipping Coordinating Committee; International Maritime Organization (IMO) Legal Committee; Meeting

The U.S. Shipping Coordinating Committee (SHC) will conduct an open public meeting at 10 a.m., on Thursday, November 19, 1992, in room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC.

The primary purpose of this meeting is to discuss the upcoming Diplomatic Conference on the Revision of the 1969 Civil Liability Convention and the 1971 Fund Convention, continue preparations for the upcoming Diplomatic Conference on Maritime Liens and Mortgages, and report on the results of the 67th Session of the International Maritime Organization (IMO) Legal Committee which was held in London, England, September 28–October 2, 1992.

To facilitate the attendance of those participants who may be interested in only certain aspects of the public meeting, the first subject addressed will be the Diplomatic Conference on revising the international oil conventions, which will be held in London, November 23–27, 1992. The second subject, which will be considered at approximately 11 a.m., will be a report of the 67th Session of the IMO Legal Committee with the principal focus upon the ongoing work to develop a draft convention on liability and compensation for damage in connection with the maritime carriage of hazardous and noxious substances (HNS). The third primary agenda item, the upcoming Diplomatic Conference on Maritime Liens and Mortgages which is scheduled to be held in Geneva, Switzerland, April 23–May 7, 1993, will be taken up at approximately 1 p.m.

The views of the public, and particularly those of affected maritime commercial and environmental interests, are requested.

Members of the public are invited to attend the SHC meeting, up to the seating capacity of the room.

For further information or to submit views concerning any of the topics to be addressed at the SHC meeting, contact either Captain David J. Kantor or Lieutenant Commander Mark J. Yost, U.S. Coast Guard (G-LMI), 2100 Second Street SW., Washington, DC 20593, telephone (202) 267-1527, telefax (202) 267-4163.

Dated: October 29, 1992.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 92-26741 Filed 11-3-92; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 92-062]

Chemical Transportation Advisory Committee; Request for Applications

AGENCY: Coast Guard, DOT.

ACTION: Request for applications.

SUMMARY: The U.S. Coast Guard is seeking applications for appointment to membership on the Chemical Transportation Advisory Committee (CTAC). This committee advises the Chief, Office of Marine Safety, Security and Environmental Protection on regulatory requirements for promoting safety in the transportation of hazardous materials on vessels and the transfer of these materials between vessels and waterfront facilities.

Applications will be considered for nine expiring terms and for any other existing vacancies. To achieve the balance of membership required by the Federal Advisory Committee Act, the Coast Guard is especially interested in applications from minorities and women.

The Committee usually meets at least once a year in Washington, DC, with Subcommittee meetings for specific problems on an as-required basis. All

members serve without compensation (neither travel nor per diem) from the Federal Government.

DATES: Requests for applications should be received no later than December 15, 1992. Completed applications should be submitted to the Coast Guard before February 1, 1993.

ADDRESSES: Persons interested in applying should write to Commandant (G-MTH-1), U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001.

FOR FURTHER INFORMATION CONTACT: CDR Kevin J. Eldridge or Mr. Frank K. Thompson, all at the above address or telephone (202) 267-1217.

Dated: October 29, 1992.

R.C. North,

Captain, U.S. Coast Guard, Deputy Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-26740 Filed 11-3-92; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-92-31]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before November 25, 1992.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

FOR FURTHER INFORMATION CONTACT: Mrs. Jeanne Trapani, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-7624.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 28, 1992.

Denise D. Castaldo,

Manager, Program Management Staff.

Petitions for Exemption

Docket No.: 17681.
Petitioner: Kenmore Air Harbor, Inc.
Sections of the FAR Affected: 14 CFR 135.203(a)(1).
Description of Relief Sought: To extend Exemption #2528, which expires March 31, 1993, and which allows Kenmore Air Harbor, Inc., to conduct operations under visual flight rules (VFR) outside of controlled airspace, over water, at an altitude below 500 feet.

[FR Doc. 92-26738 Filed 11-3-92; 8:45 am]

BILLING CODE 4910-13-M

Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (FPC) at Yeager Airport, Charleston, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Yeager Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before December 4, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Joseph H. Scheff, Manager Beckley Airports Field Office, Main Terminal Building, 469 Airport Circle, Beaver, West Virginia 25813-6216.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Jeffrey D. Bubar, Airport Director of the Central West Virginia Regional Airport Authority at the following address: Central West Virginia Airport Authority, Suite 175, 100 Airport road, Charleston, West Virginia 25311-1080.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Central West Virginia Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph H. Scheff, manager Beckley Airports Field Office, Main Terminal Building, 469 Airport Circle, Beaver, West Virginia 25813-6216 (Tel. 304-252-6216). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Yeager Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On October 5, 1992, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Central West Virginia Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 30, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.000
Proposed charge effective date: May 1, 1993
Proposed charge expiration date: January 30, 1998
Total estimated PFC revenue: $3,078,268
Brief description of proposed projects:
The PFC funds will be utilized to fund the local share of the following proposed AIP projects.
—Conduct master Plan
—Airfield construction
—Terminal expansion
—Install loading bridges
—Purchase snow removal and ARFF equipment
—Airfield lighting
—Remove and light obstruction

Class or classes of air carriers which the public has requested not be required

to collect PFCs: All non scheduled part 135 and part 121 charter operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Central West Virginia Airport Authority.

Issued in Jamaica, New York state on October 26, 1992.

Louis P. DeRose,

Manager, Airports Division, Eastern Region.

[FR Doc. 92-26737 Filed 11-3-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Petition for Waiver for Test Program: National Railroad Passenger Corporation (FRA Docket No. H-92-1), Metro North Commuter Railroad (FRA Docket No. H-92-2)

On July 14, 1992, the Federal Railroad Administration (FRA) published in the **Federal Register** (57 FR 31228) notice of petitions from the National Railroad Passenger Corporation and Metro North Commuter Railroad for waiver from FRA rail safety regulations for a program to conduct a test and provide a limited revenue service demonstration of a passenger trainset imported from Sweden, the "X2000." This notice supplements FRA's July 14, 1992 notice in that certain statutory and regulatory provisions which FRA now has under consideration for waiver were not specified in the earlier notice.

The X2000 consists of power unit with four unpowered passenger trailer units and a driving trailer (or cab unit). The units are coupled together in a permanent configuration which can be separated only at a maintenance and repair facility by trained personnel. Absent special coupler adapters, none of these units can be operated coupled separately in trains of conventional equipment, nor can conventional equipment be intermingled within the unites of this train. This train operates essentially as a single unit. It is FRA's intent to ensure that the X2000 comply with the intent and purpose of federal rail safety statutes and regulations as closely as its special and unique construction will permit. It is recognized that it is of a design and construction not totally anticipated when federal safety rules and statutes were developed.

Based on investigation subsequent to the July 14, 1992 notice, it has been determined that because of the need to place test instrumentation upon two trucks on the X2000, brakes on those trucks would be inoperative during the test phase of the program. Petitioners state that technical analyses indicate that the operative brakes on the remaining ten trucks will provide sufficient braking power for safe operations. Therefore, in accordance with 49 CFR 211.9 and 211.41, FRA has under consideration the temporary waiver of certain provisions of 49 CFR part 232, "Railroad Power Brakes and Drawbars" (49 CFR 232.1 and 232.12. FRA also has under consideration temporary suspension for limited test purposes that portion of section 1 of the Safety Appliance Acts pertaining to the requirement that locomotives be equipped with power driving-wheel brakes.

Interested parties may submit written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request. All communications concerning this proceeding should identify the appropriate docket number (e.g., Waiver Petition Docket No. H-92-1 and H-92-2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before December 2, 1992 will be considered by FRA before final action is taken. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

Issued in Washington, DC on November 2, 1992

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 92-26871 Filed 11-3-92; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

[Docket No. 92-38; Notice 2]

Determination That Nonconforming 1986 Mercedes-Benz 260SE Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1986 Mercedes-Benz 260SE passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1986 Mercedes-Benz 260SE passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1986 Mercedes-Benz 300SE), and they are capable of being readily modified to conform to the standards.

DATES: The determination is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that

(I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 [of the Act], and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it

receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

Champagne Imports Inc. of Landsdale, Pennsylvania (Registered Importer No. R-90-009) petitioned NHTSA to determine whether 1986 Mercedes-Benz 260SE passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on August 7, 1992 (57 FR 34998) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #18 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1986 Mercedes Benz 260SE (Model ID 126.020) is substantially similar to a 1986 Mercedes Benz 300SE (Model ID 126.024) originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 29, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92-26747 Filed 11-3-92; 8:45 am]

BILLING CODE 4910-59-M

Denial of Motor Vehicle Defect Petition

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

Ms. Kathryn J. Porretti petitioned NHTSA by letter, requesting that a defect investigation be conducted concerning alleged failure of the air bag system to deploy in an accident on 1990 Chevrolet Corvette vehicles. Specifically, the petitioner alleged that, while driving at 35 miles per hour (mph), she struck a 1972 Ford Fairmont broadside and the air bag in her Corvette did not deploy. The petitioner described the injuries she received in this crash. Further, she stated that following the accident, turning on the power to the ignition of the Corvette caused an indicator lamp to illuminate indicating that the air bag had failed.

The petition is denied based on NHTSA's analysis of all available information. NHTSA has concluded that there is no reasonable possibility that further investigation would lead to a determination of the existence of a safety-related defect with respect to any of the allegations referred to in the petition and that it would be inappropriate to expend further agency resources on these allegations.

NHTSA has prepared a full report that describes the alleged defects, the agency's analysis of the allegations presented in the petition, and the basis for its decision to deny the petition. Interested persons may obtain copies of that report by contacting the Technical Reference Division, NAD-52, room 5108B, 400 Seventh Street, SW., Washington, DC 20590, Telephone No.: (202) 366-2768. A brief summary of this report is presented below.

NHTSA concludes that the failure alleged in this petition, i.e., non-deployment of air bags in 1990 through 1992 Corvette vehicles, is not a safety-related defect, because non-employment in a crash of the angle and severity experienced by the petitioner is to be expected. Such a condition does not create an unreasonable safety risk. Further, the agency concludes the alleged illumination of the air bag warning lamp does not represent an unreasonable risk to motor vehicle safety. The analysis considered all available information from NHTSA's computerized complaint data system, information received from General Motors (GM), and personal contact with the petitioner.

The 1990 Corvette is equipped with a Supplemental Inflatable Restraint (SIR) system. This system supplements the driver's safety belt to provide occupant crash protection by deploying an air bag from the center of the steering wheel during a moderate to severe vehicle impact. The SIR system consists of two front sensors attached to the vehicle which assess the severity of a crash, a diagnostic energy reserve module (DERM) with an arming sensor (a sensor that closes in a significant crash and "arms" the air bag system for deployment), an inflator module including air bag, gas generator and inflator squib, an "INFL REST" indicator lamp in the vehicle's visually-displayed Driver Information Center, a SIR coil assembly, front bumper impact bar/skid bar assembly, and wiring harness.

The SIR system is activated only when the crash is of sufficient severity such that at least one front discriminating sensor and the DERM's arming sensor have closed simultaneously. This is required to prevent unintentional or unnecessary deployment of the air bag, that is, deployment in crashes in which the supplemental restraint of the air bag is not necessary to ensure occupant crash protection. The air bag deploys when the vehicle is involved in a significant frontal collision, up to 30 degrees, both right and left, off the centerline of the vehicle.

The system status indicator lamp in the Driver Information Center is designed to illuminate for 5 seconds after the ignition is turned "ON," with the message "INFL REST." This indicates that the SIR system is operational and functioning properly. A lamp that does not illuminate or does not go out after 5 seconds is indicative that a problem may exist.

Analysis of the available information revealed the following:

1. GM provided NHTSA with photographs of the subject crash-involved vehicle, as well as a police accident report concerning the crash. The agency's review of the photographs of the petitioner's crash-involved Corvette and the accident report revealed that the impact speed and the direction of the impact experienced by the petitioner's vehicle were not sufficient to cause air bag deployment. This conclusion is based on the following facts. First, a significant portion of the damage occurred to the left door, left quarter panel, and the hood, which shifted sideways due to a lateral impact force (from left to right). The principal direction of crash forces was outside the 30 degrees of frontal range. Second, the photographs indicate the severity of the crash impact was substantially below the deployment threshold of the SIR. In response to NHTSA's request for an engineering assessment of the crash, GM pointed out that the "deployment threshold speed for impacts into objects that absorb or

convert energy (such as another vehicle) is higher than for rigid barrier impacts." Thus, the threshold speed for deployment in a vehicle-to-vehicle crash similar to the petitioner's would have been substantially above the 12 mph deployment threshold design speed in a frontal impact with a rigid barrier. Finally, the accident damage to the Corvette is much less than that which occurs in the angle impact SIR threshold validation test conducted by GM. Thus, all available information indicate that the petitioner's crash was of a severity less than that required to deploy the SIR.

2. The continuing illumination of the air bag warning lamp in the petitioner's vehicle after the accident appears to be the result of SIR system disassembly by the GM dealership technician, who inspected the petitioner's vehicle. The SIR system was disassembled to remove the DERM for further evaluation. The petitioner stated that the air bag warning lamp was not illuminating continuously or indicating any system malfunction before the accident.

3. NHTSA's review of GM's 34 owner complaints on Corvette vehicles reported to GM concluded that many of the incidents alleging failure of the air bag to deploy apparently involved impacts that were either below the threshold of force necessary for air bag deployment or the impact angle was more than 30 degrees off the centerline of the vehicle.

4. A review of 68 owner complaint reports to GM pertaining to continuing illumination of the air bag warning lamp revealed the following: (1) No single failed component was identified causing the problem trend; (2) there is no indication that the air bag warning lamp fails to come on when the SIR system is malfunctioning; and (3) there is no complaint pertaining to intermittent air bag lamp "on" and "off" problems during normal operation of the subject vehicles. Based on the above, it appears that the type of continuing illumination of the air bag warning lamp in the subject vehicles does not represent unreasonable risk to motor vehicle safety because illumination warns the driver of a potential malfunction of the SIR system as designed. The car can be safely driven (driver using the safety belts) to a GM dealer to identify whether a problem exists and get it corrected.

5. Based on owner information provided to NTHSA, the complaint rate (complaints per 100,000 vehicles produced) on the subject vehicles concerning non-deployment of the air bag is lower than the average for other vehicles equipped with an air bag.

Based on the information available, no defect has been observed and identified in the subject vehicles for any component or device which could cause air bag non-deployment in crashes where the air bag should deploy to provide crash protection. Analysis of the available information indicates low complaint rates for the subject vehicles. The reports of illumination of the air bag warning lamp in the subject vehicles does not indicate the presence of an unreasonable risk to motor vehicle safety. Based on all available information, there are insufficient data to indicate a safety-related defect exists. Hence, further expenditure of resources to establish a safety-related defect is not warranted.

Accordingly, the petition is denied.

Authority: Sec. 124, Pub. L. 93-492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 29, 1992.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 92-26748 Filed 11-3-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 29, 1992.

The Department of Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0229.
Form Number: IRS Form 6406.
Type of Review: Resubmission.
Title: Short Form Application for Determination for Amendment of Employee Benefit Plan.
Description: This form is used by certain employee plans who want a determination letter or an amendment to the plan. The information gathered will be used to decide whether the plan is qualified under section 401(a).
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents/ Recordkeepers: 16,000.
Estimated Burden Hours per Respondent/Recordkeeper:
Recordkeeping—12 hours, 55 minutes.
Learning about the law or the form—3 hours, 23 minutes.
Preparing the form—6 hours, 32 minutes.
Copying, assembling, and sending the form to the IRS—48 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/ Recordkeeping Burden: 378,240 hours.
Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92-26760 Filed 11-3-92; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0982
Regulation ID Number: LR-77-86 TEMP (T.D. 8124)
Type of Review: Extension
Title: Certain Elections Under the Tax Reform Act of 1986
Description: These regulations establish various elections with respect to which immediate interim guidance on the time and manner of making the election is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.

Respondents: Individuals or households, State or local governments, farms, businesses or other for-profit, non-profit institutions, small businesses or organizations

Estimated Number of Respondents: 114,710

Estimated Burden Hours Per Respondent: 15 minutes

Frequency of Response: On occasion

Estimated Total Reporting Burden: 28,678 hours

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 92–26761 Filed 11–3–92; 8:45 am]

BILLING CODE 4830–01–M

Internal Revenue Service

Solicitation of Comments on 1993 Business Plan

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice; solicitation for comments.

SUMMARY: This notice solicits public comments on the 1993 Business Plan.

DATES: Written comments should be submitted by December 1, 1992.

ADDRESSES: Written comments should be addressed to Internal Revenue Service, Attn: Bruce Kipnis, CC:FI&P, room 4007, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Bruce Kipnis at 202–622–3910, not a toll-free number.

SUPPLEMENTARY INFORMATION: The Office of Tax Policy, Department of the Treasury and the Internal Revenue Service are in the process of developing a 1993 Business Plan which will identify specific topics to be addressed through administrative guidance during 1993. Recommendations from the public are encouraged on the specific issues that should be included in the business plan, the manner in which those issues should be resolved, and any business or other considerations that should be taken into account in developing appropriate guidance. If multiple issues are recommended in an area, their relative priorities should be addressed. In developing the 1993 Business Plan, the Office of Tax Policy, Department of the Treasury and the Internal Revenue Service will consider comments submitted on the 1992 Business Plan for which guidance was not issued during 1992.

In order that the Office of Tax Policy, Department of the Treasury and the Internal Revenue Service have sufficient time to review the comments before publishing the 1993 Business Plan, comments should be submitted by December 1, 1992.

Paul C. Feinberg,

Special Counsel to the Associate Chief Counsel (Domestic).

[FR Doc. 92–26726 Filed 11–3–92; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 214
Wednesday, November 4, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 26, 1992, 57 FR 48549.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 28, 1992, 10 a.m.

CHANGE IN THE MEETING: The following Docket Numbers have been added to Items CAG–8, CAG–8, CAG–9, CAG–10, CAG–11, CAG–15, CAG–67 and CAG–69 on the Agenda scheduled for October 28, 1992:

Item No., Docket No., and Company

CAG–6 RS92–26–000, United Gas Pipe Line Company
CAG–8 RS92–60–000, El Paso Natural Gas Company
CAG–9 CP89–1227–000, RP90–124–000 and RP90–161–000, Northern Natural Gas Company
CAG–10 RS92–43–000, Mississippi River Transmission Corporation
CAG–11 CP81–108–009, Tennessee Gas Pipeline Company
CAG–15 RP91–41–000, *et al.*, Columbia Gas Transmission Corporation
CAG–67 RS92–27–000, Alabama-Tennessee Natural Gas Company
CAG–69 RS92–69–000, Northwest Pipeline Corporation

Lois D. Cashell,

Secretary.

[FR Doc. 92–26882 Filed 11–2–92; 3:01 pm]

BILLING CODE 6717–02–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, November 9, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 30, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–26810 Filed 10–30–92; 4:41 pm]

BILLING CODE 6210–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM:

TIME AND DATE: 12 Noon, Friday, October 30, 1992.

The business of the Board required that this meeting be held with less than one week's advance notice to the public, and no earlier announcement of the meeting was practicable.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank Operations.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 30, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92–26834 Filed 11–2–92; 3:00 pm]

BILLING CODE 6210–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Office of the Inspector General Oversight Committee Meeting

TIME AND DATE: A meeting of the Board of Directors Office of the Inspector General Oversight Committee will be held on November 16, 1992. The meeting will commence at 11:00 a.m.

PLACE: The Legal Services Corporation, 750 1st Street, N.E., The Board Room, 11th Floor, Washington, D.C. 20002, (202) 336–8896.

STATUS OF MEETING: *Open*, except that a portion of the meeting will be closed pursuant to a majority vote of the Board of Directors to be taken prior to the Committee meeting. During the closed session, the Committee will approve the minutes of the executive session held by the Committee on October 18, 1992.[2] In addition, the Committee will be briefed on customary practices in the Inspectors General community.[3] Finally, the Committee will consider the employment contract of the Inspector General. The closing will be authorized by the relevant section of the Government in the Sunshine Act [5 U.S.C. Section 552(b)(6), and (7)(C)], and the corresponding regulation of the Legal Services Corporation [45 C.F.R. Section 1622.5(e), and (f)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, N.E., Washington, D.C. 20002, in its two reception areas, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.
2. Approval of Minutes of October 18, 1992 Meeting.
3. Consideration of Report on the Office of the Inspector General's Quality Assurance Program for the Independent Audits of Grant Recipients.
4. Consideration of Draft Management Report on the Inspector General's Semiannual Report Covering the Period of April 1, 1992 through September 30, 1992.

CLOSED SESSION:

5. Approval of Minutes of October 18, 1992 Executive Session.
6. Briefing on Customary Practices in the Inspector General Community.
7. Consideration of the Inspector General's Employment Contract.

OPEN SESSION: (Resumed)

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[2] As to the Committee's consideration and approval of the draft minutes of the executive session held on the above-noted date, the closing is authorized as noted in the **Federal Register** notice corresponding to that committee meeting.

[3] That portion of the closed session which will consist of briefings does not come within the definition of a meeting for purposes of the Government in the Sunshine Act. 5 U.S.C. Section 552(b)(2). The requirements of the Act, therefore, do not apply to this portion of the closed session. 5 U.S.C. Section 552(b). *See also* 45 C.F.R. Sections 1622.2 and 1622.3.

8. Consideration of Inspector General's Report on the Fiscal Year 1993 Budget Request for the Office of the Inspector General.

9. Consideration of Motion to Adjourn Meeting.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 336–8896.

Date Issued: November 2, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–26929 Filed 11–2–92; 3:04 pm]

BILLING CODE 7050–01–M

LEGAL SERVICES CORPORATION BOARD OF DIRECTORS

Audit and Appropriations Committee Meeting

TIME AND DATE: A meeting of the Board of Directors Audit and Appropriations Committee will be held on November 23, 1992. The meeting will commence at 11:00 a.m.

PLACE: The Legal Services Corporation, 750 1st Street, NE., The Board Room, 11th Floor, Washington, DC 20002, (202) 336–8896.

STATUS OF MEETING: *Open*, except that a portion of the meeting will be closed pursuant to a majority vote of the Board of Directors to be taken prior to the Committee meeting. During the closed session, the Committee will consider the General Counsel's report regarding the fiscal year ("FY") 1993 budget request of the Office of the General Counsel. The closing will be authorized by the relevant section of the Government in the Sunshine Act [5 U.S.C. Section 552(b) (6), and (10)], and the corresponding regulation of the Legal Services Corporation [45 CFR Section 1622.5 (e), and (h)]. The closing will be certified by the Corporation's General Counsel as authorized by the above-cited provisions of law. A copy of the General Counsel's certification will be posted for public inspection at the Corporation's headquarters, located at 750 First Street, NE., Washington, DC 20002, in its two reception areas, and will otherwise be available upon request.

MATTERS TO BE CONSIDERED:

OPEN SESSION:

1. Approval of Agenda.

2. Approval of Minutes of October 18, 1992 Meeting.

3. Consideration of Status Report on the Leasing of the Corporation's Former Headquarters Office Space.

4. Consideration of Report on Historical Analysis of the Corporation's Expenditures Over the Past Twelve-Year Period.

5. Consideration of Office of the Inspector General Oversight Committee's Recommendation on the Fiscal Year 1993 Budget of the Office of the Inspector General.

CLOSED SESSION:

6. Consideration of General Counsel's Report on the Proposed Fiscal Year 1993 Budget of the Office of the General Counsel.

OPEN SESSION: (Resumed)

7. Consideration and Review of Proposed Fiscal Year 1993 Consolidated Operating Budget.

8. Public Comment Regarding the Fiscal Year 1994 Appropriation Request for the Corporation.

CONTACT PERSON FOR INFORMATION: Patricia D. Batie, Executive Office, (202) 336–8896.

Date Issued: November 2, 1992.

Patricia D. Batie,

Corporate Secretary.

[FR Doc. 92–26930 Filed 11–2–92; 3:04 pm]

BILLING CODE 7050–01–M

NATIONAL COUNCIL ON DISABILITY

Quarterly Meeting

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming conference "Furthering the Goals of the Americans with Disabilities Act through Disability Policy Research in the 1990s." This notice also describes the functions of the National Council. Notice of this meeting is required under section 522(b)(10) of the "Government in Sunshine Act" (P.L. 94–409).

DATES: December 7–9, 1992, 8:30 a.m. to 5:00 p.m.

LOCATION: Hyatt Regency Washington On Capitol Hill, 400 New Jersey Avenue, NW., Washington, DC 20001, (202) 737–1234.

FOR FURTHER INFORMATION CONTACT: National Council on Disability, 800 Independence Avenue, SW, Suite 814, Washington, D.C. 20591, (202) 267–3846, TDD: (202) 267–3232.

The National Council on Disability is an independent federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Public Law No. 95–602 in 1978), the National Council was initially an advisory board within the Department of Education. In 1984, however, the National Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Public Law 98–221).

The National Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting individuals with disabilities and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the Rehabilitation Services Administration, and the Director of the National Institute on Disability and Rehabilitation Research (NIDRR). In addition, the National Council is mandated to provide guidance to the President's Committee on Employment of People With Disabilities.

This conference of the National Council on Disability shall be open to the Public. The proposed agenda includes:

Session I: Keynote Address

Session II: Putting Research to Work for the Realization of the Goals of the ADA: the Perspective of the disability Community Luncheon Roundtables

Session III: Shaping an Interdisciplinary Field of Disability Studies Responsive to the Goals of the ADA

Session IV: Strategies for Adopting Common Nomenclature Which is Responsive to the Goals of the ADA: The International and National Experiences

Session V: Research Strategies for Statistics: Survey Data and Quantitative Research

Session VI: Research Strategies for Monitoring the ADA

Session VII: Furthering the Goals of the ADA: Disability Policy Research, Where Do We Go From Here?

Summary and Conclusions

Records shall be kept of all National Council proceedings and shall be available after the meeting for public inspection at the National Council on Disability.

Signed at Washington, D.C. on November 2, 1992.

Ethel D. Briggs,

Executive Director.

[FR Doc. 92–26902 Filed 11–2–92; 3:02 pm]

BILLING CODE 6820–BS–M

Federal Register

Wednesday
November 4, 1992

Part II

Department of Education

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps; Applications for New Awards for Fiscal Year (FY) 1993; Notice

DEPARTMENT OF EDUCATION

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps

AGENCY: Department of Education.

ACTION: Notice of Final Priorities for Fiscal Year 1993.

SUMMARY: The Secretary announces final priorities for fiscal year 1993 under the program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps. The Secretary takes this action to focus Federal financial assistance on areas of identified national need. These final priorities are intended to expand or otherwise improve vocational rehabilitation services for individuals with severe handicaps who can benefit from innovative and comprehensive services.

EFFECTIVE DATE: These final priorities take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Thomas E. Finch, U.S. Department of Education, 400 Maryland Avenue, SW., room 3315, Switzer Building, Washington, DC 20202–2649. Telephone: (202) 205–9796. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern Time.

SUPPLEMENTARY INFORMATION: Grants under the program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps are authorized by section 311(a)(1) of title III of the Rehabilitation Act of 1973, as amended. The purpose of this program is to award grants for special projects and demonstrations that hold promise of expanding or otherwise improving rehabilitation services to individuals with severe handicaps who can benefit from innovative and comprehensive services.

This document contains four final priorities designed to further the purpose of the program. The reasons for the Secretary's choice of these priorities for funding in fiscal year 1993 are discussed in the respective background sections of each priority.

On August 4, 1992, the Secretary published a notice of proposed priorities for this program in the **Federal Register** (57 FR 34472).

This program supports AMERICA 2000, the President's strategy for moving the Nation toward achievement of the National Education Goals, as well as the President's National Drug Control Strategy. By encouraging the development of vocational rehabilitation strategies designed to increase the vocational potential of individuals with disabilities, these priorities support National Education Goal five. This goal calls for every adult American to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Note: This notice of final priorities does *not* solicit applications. A notice inviting applications under these competitions is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priorities, seven parties submitted comments. An analysis of the comments follows. Please note that this section addresses only those proposed priorities on which substantive comments were received. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Absolute Priority 1—Model Systems of Collaboration to Assist in the Training and Employment of Individuals Who Are Disabled Due to the Abuse of Drugs Other than Alcohol

Comments: Two commenters recommended that the Rehabilitation Services Administration (RSA) make concerted efforts to provide services to individuals with multiple disabilities or dual diagnosis, such as individuals with mental illness and concurrent substance abuse, who otherwise would be eliminated from traditional substance abuse programs and mental health programs. One commenter also noted that dual diagnosis populations do not appear to be precluded under the priority. One commenter also stated that vocational rehabilitation counselors could be instrumental in the rehabilitation process and facilitate interagency collaboration. Another commenter recommended that long-term residential programs be given highest priority.

Discussion: The Secretary agrees that individuals with multiple disabilities or dual diagnosis may be served under this priority. The Secretary also agrees that the role of the vocational rehabilitation counselor and the State vocational rehabilitation agency is very important.

In response to the recommendation that long-term residential programs be given the highest priority, the Secretary encourages applications from a variety of programs that will provide model systems and services to individuals who abuse drugs. The Secretary, however, does not wish to give competitive preference to any one treatment modality.

Changes: None.

Absolute Priority 2—Functional Assessment of Individuals With Cognitive Disabilities

Comments: One commenter was concerned that individuals with disabilities other than cognitive disabilities were not included in this priority. The commenter recommended that another priority be added that would develop model approaches to functional assessments for individuals with multiple severe disabilities, including severe speech disabilities.

Discussion: The Secretary agrees that individuals who do not have cognitive disabilities could benefit from being added to the list of groups targeted for functional assessment, but does not wish to broaden the scope of the priority to include persons who do not have cognitive disabilities. Given the dramatic increase in the number of individuals with severe cognitive disabilities, the Secretary wishes to focus now on functional assessments for persons with cognitive disabilities. Projects under this priority can serve individuals with multiple disabilities, but all individuals who are served must have cognitive disabilities.

Changes: None.

Absolute Priority 3—Linkages Between State Vocational Rehabilitation Agencies and Consumer-Run Programs for Individuals With Severe Mental Illness

Comments: One commenter strongly supported this priority and urged that it be given equal emphasis with the priority that is directed toward services to individuals who are disabled due to the use of drugs.

Discussion: The numerical designation for each priority is for identification only. Each priority included in this notice is of equal importance.

Changes: None.

Absolute Priority 4—Low-Functioning Adults Who Are Deaf or Hard of Hearing

Comments: One commenter recommended changing the term "low-functioning," and suggested that the term "underserved" be used to designate the group of persons who are deaf or hard of hearing to be served by this priority.

Discussion: The Congress directed in conference report language accompanying the Department's 1991 appropriation that funds from the Special Projects and Demonstrations program be set aside to support projects for low-functioning adults who are deaf or hard of hearing. The Secretary has continued the use of this term to emphasize the need to provide services to this target population.

Changes: None.

Priorities

Under 34 CFR 75.105(c)(3) the Secretary gives an absolute preference to applications that meet one or more of the following priorities. The Secretary funds under these competitions only applications that meet one or more of these absolute priorities:

Absolute Priority 1—Model Systems of Collaboration to Assist in the Training and Employment of Individuals Who Are Disabled Due to the Abuse of Drugs Other Than Alcohol

Background

According to the National Institute on Drug Abuse, about six percent of the population use drugs. Several studies suggest that the rate of drug abuse among individuals with disabilities is approximately twice that of the general population ("Adapting the Vocational Evaluation Process for Clients with a Substance Abuse History," Journal of Applied Rehabilitation Counseling, Volume 21, Number 3, 1990). As the number of individuals abusing drugs has grown, so has the number of these individuals both served and rehabilitated by State vocational rehabilitation (VR) agencies.

Available research studies suggest that substance abuse poses significant and unique challenges to rehabilitation practitioners due to the individual's denial of the impact of the abuse; the lack of available comprehensive support mechanisms thought necessary for any lasting rehabilitation; the need for collaboration among the diverse agencies involved with the individual; the diminished motivation and capacity of the individual to participate in a rehabilitation program; and the reluctance of employers to hire these individuals ("Job Placement Strategies with Substance Abusers," Journal of Job Placement, Volume 6, Number 2, 1990).

In addition, many rehabilitation practitioners who lack extensive experience in working with individuals who abuse drugs may not recognize the subtle, yet important, signs connected with the disability, thus impairing any rehabilitation effort ("Dual Diagnosis: Psychiatric Disorder and Substance Abuse," Journal of Applied Rehabilitation Counseling, Volume 19, Number 2). One effort to enhance the skills of rehabilitation practitioners is published in the *Rehabilitation Continuing Education Program Consortium (RCEP) Vocational Rehabilitation of Drug-Free Youths (14–18): A State/Federal Rehabilitation Services Administration and Juvenile Justice Training Initiative—Twelve Training Modules for Rehabilitation Service Providers* (George Washington Regional Rehabilitation Continuing Education Program, January 1992). The training modules were developed by the RCEPs as a product of collaboration between the Rehabilitation Services Administration of the U.S. Department of Education and the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice.

To prepare for the anticipated continued increase of referrals to State VR agencies of individuals who have abused drugs, it is necessary to identify effective rehabilitation interventions that can be used by rehabilitation practitioners in working with this increasing and challenging population. The Secretary is particularly interested in projects that incorporate widely accepted service delivery approaches such as: (a) Traditional 12-step programs or other strong on-going support strategies such as mentoring; (b) involvement of family, friends, volunteers, co-workers, or service providers as natural supports throughout the rehabilitation process; (c) collaboration among relevant agencies, such as rehabilitation service providers, law enforcement agencies, and drug treatment programs in the formulation, implementation, and evaluation of rehabilitation programming; (d) training in social effectiveness, decisionmaking skills, self-esteem, and assertiveness; and (e) crisis intervention mechanisms that can be employed swiftly and effectively during periods of relapse.

Because of the particular issues involved in serving individuals who abuse drugs, the Secretary is especially interested in projects that focus on drug abuse other than alcoholism.

Priority

Projects must demonstrate service delivery interventions that will assist individuals who have abused drugs (other than alcohol) and who have, as a result of that abuse, a substantial handicap to employment in preparing for, obtaining, and maintaining suitable employment consistent with their capacities and abilities. These strategies must be implemented after successful completion of the acute treatment phase of the recovery process.

Each project must show evidence of coordination with appropriate community resources serving individuals who abuse drugs other than alcohol. Each project must disseminate widely the practices and materials it develops to facilitate the capacity of other agencies and facilities to provide improved services to individuals who are disabled due to the abuse of drugs other than alcohol.

Absolute Priority 2—Functional Assessment of Individuals With Cognitive Disabilities

Background

Within the past decade there has been a dramatic increase in the number of individuals with severe cognitive disabilities, such as learning disabilities, traumatic brain injury, mental retardation, and severe mental illness, who are seeking vocational rehabilitation services. Because cognitive disabilities are often hidden, the manifestations of these disabilities and their impact on employment are difficult to ascertain and to quantify.

Traditional assessments, such as neuropsychological assessments, are effective in identifying the broad range of deficits that may result from a cognitive disability. However, these assessments do not show how the individual's deficits might interact with task and environmental demands and, thus, impact on the individual's ability to function in employment and employment-related situations ("Neuropsychological Rehabilitation: Treatment of Errors in Everyday Functioning," The Neuropsychology of Everyday Life: Issues in Development and Rehabilitation, 1990).

Functional assessment differs from more traditional assessments by focusing on how individual limitations and strengths interact with the demands of living, working, and learning environments ("Rehabilitation

Programming with Adults Who Have Specific Learning Disabilities," unpublished paper, National Institute on Disability Rehabilitation Research State of the Art Conference on Rehabilitation Services to Persons with Specific Learning Disabilities, 1987). Situational work assessments and job site evaluations, for example, are effective in determining how an individual's strengths and limitations match with job tasks and with varying environmental demands, such as the level of distractions, type and nature of supervision, job structure, and the type and amount of job-related interactions with others.

Functional assessment used systematically throughout the vocational rehabilitation process generates more useful and vocationally relevant information, leading to improved vocational outcomes for individuals with cognitive disabilities.

The Secretary also proposes to fund a Rehabilitation Short Term Training project in FY 1993 that will train rehabilitation professionals and pre-service educators on functional assessment for individuals with cognitive disabilities. The Secretary will coordinate the oversight and administration of these projects to assure that rehabilitation professionals, educators and related agencies and organizations derive the maximum benefits from these efforts to improve functional assessment of individuals with cognitive disabilities.

Priority

To improve vocational outcomes for individuals with cognitive disabilities, projects must—

(a) Use functional assessment to determine functional capacities in response to specific tasks and environmental demands related to those tasks; and

(b) Use the results of functional assessment throughout the vocational rehabilitation process from determinations of eligibility and severity of handicap through job placement and follow-up.

Each project must show evidence of coordination with appropriate community resources serving individuals with cognitive disabilities. Each project must disseminate widely the practices and materials it develops to facilitate the capacity of other agencies and facilities to provide improved functional assessments of individuals with cognitive disabilities.

Absolute Priority 3—Linkages Between State Vocational Rehabilitation Agencies and Consumer-Run Programs for Individuals With Severe Mental Illness

Background

Consumer-run programs for persons with severe mental illness are an outgrowth of the self-help movement and are based on the belief that consumers know best what their needs are and that persons who have experienced difficulties firsthand can offer effective support and assistance. Evaluation data that are available suggest that these consumer-run programs are effective alternatives for the provision of a wide array of services, including self-help and support services, crisis intervention, educational and vocational services, advocacy, and linkages with other service providers (Models of Community Support Services: Approaches to Helping Persons with Long-Term Mental Illness; Stroul, B., 1986).

Consumer-run programs for persons with severe mental illness may be uniquely suited for providing special services that facilitate successful employment outcomes. Examples of these services include: (a) Assisting consumers in developing the skills and knowledge necessary to manage their mental illness; (b) providing peer support and case management services; (c) assisting consumers in accessing services, such as supported housing; and (d) providing training for expanded employment options that reflect consumer preference.

Because consumer-run programs are playing an increasing role in the rehabilitation of persons with severe mental illness, they are an emerging resource that could be an asset to State VR agencies in achieving successful employment outcomes for this disability population. However, there are few examples of linkages between these consumer-run programs and State VR agencies.

There is a need for projects to improve linkages between consumer-run programs and State VR agencies and to integrate the services provided by consumer-run programs into the planning and provision of VR services provided by State agencies. Projects could be administered either by consumer-run programs or State VR agencies and could establish linkages in a variety of ways such as, but not limited to, joint project development, the establishment of cooperative agreements, or the development of memoranda of understanding.

Priority

Projects must demonstrate service models that will—

(a) Improve the linkages between State VR agencies and consumer-run programs for individuals with severe mental illness; and

(b) Develop strategies for integrating the services provided by consumer-run programs into the planning and provision of vocational rehabilitation and support services, including employment options that reflect consumer preference.

For purposes of this priority, a consumer is defined as an individual with a history of severe mental illness. A consumer run program is defined as a program in which the major decision-making positions are held by individuals with severe mental illness.

Each project must show evidence of coordination with appropriate community resources serving individuals with a history of severe mental illness. Each project must disseminate widely the practices and materials it develops to facilitate the capacity of other agencies and facilities to provide improved services to individuals with severe mental illness.

Absolute Priority 4—Low-Functioning Adults Who Are Deaf or Hard of Hearing

Background

The Commission on Education of the Deaf (February, 1988) identified low-functioning adults who are deaf or hard of hearing as an unserved sub-group within the population of persons who are deaf or hard of hearing. Due to communication barriers, low-functioning persons who are deaf are usually not able to benefit from conventional rehabilitation training programs and supported employment. Language limitations may preclude the use of interpreters for service and training program access. Even if interpreters can be used, the cost resulting from extended service needs tends to discourage the provision of these services.

Priority

Projects must provide vocational rehabilitation and other rehabilitation services, not adequately available in the geographic area proposed to be served, to maximize the vocational potential of low-functioning adults who are deaf or hard of hearing.

For the purposes of this priority, low-functioning refers to an individual (1) who is deaf or hard of hearing, and who may also have other disabilities; (2)

whose functional level is substantially below that required for admission to postsecondary education or training programs; (3) whose language and communication skills are extremely limited; (4) who is not ready for employment; and (5) who does not have marketable work skills or a history of successful employment.

Projects must meet all of the following requirements:

(a) Coordinate with other public and nonprofit private agencies and organizations to address the postsecondary education, counseling, vocational training, work transition, supported employment, job placement, follow-up, and community outreach needs of low-functioning adults who are deaf or hard of hearing.

(b) Develop working relationships with existing vocational and educational programs for adult persons who are deaf, such as the Regional Postsecondary Education Programs for the Deaf (RPEPD) supported by the Department of Education.

(c) Coordinate With the Rehabilitation Research and Training Center on Traditionally Underserved Persons Who Are Deaf at Northern Illinois University and the Research and Training Center on Deafness at the University of Arkansas, and make available to these research and training centers for dissemination the results of the projects funded under this priority.

(d) Establish relationships with potential employers from the public and private sector and have access to community-based resources serving adults who are deaf (e.g., organizations of persons who are deaf, groups providing special activities for persons who are deaf, and employment settings where there are workers who are deaf).

(e) Involve individuals who are deaf and representatives of RPEPDs or other appropriate service programs for individuals who are deaf in the planning, implementation, operation, and evaluation of the project and dissemination of the project results.

(f) Provide technical assistance to facilities and agencies in areas such as outreach, using a coordinated approach to the delivery of services, and on-site training and workshops. The technical assistance must be designed to facilitate the wide dissemination of practices and materials developed by the project and to facilitate the capacity of agencies and facilities to provide improved services to deaf or hard of hearing adults who are low-functioning.

In meeting the requirements of the selection criterion for quality of key personnel under this program (34 CFR 373.30(b)), the project staff under this priority must be experienced in the delivery of services, such as vocational evaluation, peer counseling, personal adjustment, job coaching, community-based instruction, and placement, to low-functioning adults who are deaf or hard of hearing. The staff must also be experienced in communicating with adult persons who are deaf and who have minimal language skills.

Intergovernmental Review:

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Applicable Program Regulations: 34 CFR Parts 369 and 373.

Program Authority: 29 U.S.C. 777a(a)(1) and 777a(a)(4).

(Catalog of Federal Domestic Assistance Number 84.235 Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps)

Dated: October 5, 1992.

Lamar Alexander,

Secretary of Education.

[FR Doc. 92-26602 Filed 11-3-92; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.235]

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: This program is designed to award grants for special projects and demonstrations that hold promise of expanding or otherwise improving rehabilitation services to individuals with severe handicaps who can benefit from innovative and comprehensive services.

This program supports AMERICA 2000, the President's strategy for moving the Nation toward achievement of the National Education Goals, as well as the President's National Drug Control Strategy by encouraging the development of vocational rehabilitation strategies designed to increase the vocational potential of individuals with disabilities. National Education Goal five calls for every American to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

Eligible Applicants: States and other public and nonprofit private agencies and organizations.

Deadline for Transmittal of Applications: January 11, 1993.

Dateline for Intergovernmental Review: March 15, 1993.

Applications Available: November 25, 1992.

Available Funds: $3,940,000.

Specific information regarding the estimated range of awards and number of awards appears in the chart in this notice.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 369 and 373.

Priorities

The priorities in the notice of final priorities for this program, as published elsewhere in this issue of the **Federal Register**, apply to these competitions.

For Applications: Telephone: (202) 205-9343; deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

FOR FURTHER INFORMATION CONTACT: Thomas Finch, U.S. Department of Education, 400 Maryland Avenue, SW., room 3315, Switzer Building, Washington, DC 20202-2650. Telephone: (202) 205-9796.

Program Authority: 29 U.S.C. 711a(a)(1).

Dated: October 28, 1992.

Michael E. Vader,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals With Severe Handicaps

CFDA No.	Priority areas	Estimated range of Awards	Estimated number of awards
84.235F	Services for Low-Functioning Adults Who Are Deaf or Hard of Hearing	$400,000–$500,000	2
84.235M	Model Systems of Collaboration to Assist in the Training and Employment of Individuals Who Are Disabled Due to the Abuse of Drugs Other Than Alcohol.	$140,000–$170,000	6
84.235N	Functional Assessment of Individuals with Cognitive Disabilities	$140,000–$170,000	6
84.235P	Linkages Between State Vocational Rehabilitation Agencies and Consumer-Run Programs for Individuals with Severe Mental Illness.	$140,000–$170,000	6

[FR Doc. 92–26603 Filed 11–3–92; 8:45 am]
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federal register

Wednesday
November 4, 1992

Part III

Department of Agriculture

Cooperative State Research Service

7 CFR Part 3401

Rangeland Research Grants Program; Proposed Rule

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

7 CFR Part 3401

Rangeland Research Grants Program; Administrative Provisions

AGENCY: Cooperative State Research Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Cooperative State Research Service (CSRS) proposes to amend its regulations relating to the administration of the Rangeland Research Grants Program, which prescribe the procedures to be followed annually in the solicitation of rangeland research grant proposals, the evaluation of such proposals, and the award of rangeland research grants under this program. This proposed amendment would set out formally provisions of the Special Research Grants administrative provisions that, formerly, were referenced in the CSRS regulations. This proposed amendment also would include changes similar to those published on November 15, 1991. In this regard, this proposed amendment would change the regulations by indicating that the proposal evaluation criteria contained in these regulations apply unless otherwise stated in the annual program solicitation, by providing for an increased avenue for publication of requests for grant proposals, by providing for the grant document to state the conditions under which a grantee may approve changes to an approved budget, by indicating that the format for research grant proposals applies unless otherwise stated in the program solicitation, by adding references to applicable regulations pertaining to lobbying, debarment and suspension (nonprocurement), debt collection, CSRS implementation of the National Environmental Policy Act, and drug-free workplace, and by making a few additional changes.

DATES: Comments are invited from interested individuals and organizations. To be considered in the formulation of the final rule all relevant material must be received on or before December 4, 1992.

ADDRESSES: Comments should be sent to Terry J. Pacovsky, Director, Awards Management Division, Office of Grants and Program Systems, Cooperative State Research Service, United States Department of Agriculture, room 322, Aerospace Center, Washington, DC 20250–2200.

FOR FURTHER INFORMATION CONTACT: Terry J. Pacovsky at (202) 401–5024.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

The Office of Management and Budget has previously approved the information collection requirements contained in the current regulations at 7 CFR part 3401 under the provisions of 44 U.S.C. chapter 35 and OMB Document No. 0524–0022 has been assigned. The information collection requirements of the proposed rule at 7 CFR part 3401 will be submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. chapter 35. Public reporting burden for the information collections contained in these regulations is estimated to vary from ½ hour to 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB Document No. 0524–0022), Washington, DC 20503.

Classification

This rule has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or on geographical regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law No. 96–534 (5 U.S.C. 601 *et seq.*).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This proposed regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended. (42 U.S.C. 4321 *et seq.*)

Catalog of Federal Domestic Assistance

The Rangeland Research Grants Program is listed in the Catalog of Federal Domestic Assistance under No. 10.200. For reasons set forth in the Final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

Under the authority of section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended, the Secretary of Agriculture is authorized to make grants to land-grant colleges and universities, State agricultural experiment stations, and colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research, as determined by the Secretary, to carry out rangeland research. 7 CFR 2.107(a)(21) delegates this authority to the Administrator of CSRS. In the past, the Rangeland Research Program regulations, 7 CFR part 3401, to a substantial extent, referenced provisions from the Special Research Grant Program regulations, 7 CFR part 3400. 7 CFR part 3400 was amended on November 15, 1991 (56 FR 58146). CSRS now proposes to amend the administrative regulations governing the Rangeland Research Grant Program authorized by section 1480 through the formulation of separate regulations for this program. CSRS proposes to accomplish this by replacing § 3401.2 and adding §§ 3401.6 through 3401.17. In addition to setting out formally the provisions of 7 CFR part 3400 that formerly were referenced, the proposed changes reflect the changes made to 7 CFR part 3400 on November 15, 1991. Such additional changes are as follows:

Section 3401.2

CSRS proposes to revise this section by replacing it with definitions of key words to be used in this part to enhance clarity of proposals.

Section 3401.6(a)

CSRS proposes to revise this section to indicate the various types of publications, in addition to the Federal Register, in which requests for proposals may be announced by CSRS to the public. This revision is considered necessary in order to be consistent with the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015.

Section 3401.6(c)

CSRS proposes to add "Unless otherwise stated in the program solicitation, the following format applies:" to show that research grant proposals submitted by eligible applicants should follow the format for research grant proposals indicated in paragraphs (c)(1)–(c)(16) of § 3401.6, unless otherwise stated in the program solicitation.

Section 3401.6(c)(3)

CSRS proposes to add the word "enumerated" to assure that multiple objectives are listed separately in order to enhance the clarity of proposals.

Section 3401.6(c)(13)(iii)

CSRS proposes to add, as the last sentence, that the Grant Application Kit contains suitable forms for certifying compliance with the animal Welfare Act of 1966, as amended, (7 U.S.C. 2131 *et seq.*) in the event that a project involving the use of a laboratory animal is recommended for award. This action will ensure uniformity in the use of a certification statement by all who are required to submit a certificate of compliance as well as inform prospective applicants of the existence of such a form.

Section 3401.6(c)(14)

CSRS proposes to add, as the last sentence of this section, that the Grant application Kit contains a suitable form for listing current and pending support. This action will ensure uniformity in the information provided to CSRS in all grant proposals as well as inform prospective applicants of the existence of such a form.

Section 3401.6(c)(16)

CSRS proposes to revise this section to inform prospective applicants that forms recommended for use in providing organizational management information to CSRS will be provided to them by CSRS when required. This action will remove the requirements placed upon the applicant in requesting the forms from CSRS.

Section 3401.7

CSRS proposes to amend this section in order to provide for the use of different evaluation criteria when CSRS determines that such is necessary for the proper evaluation of proposals in a specific program area. Such determination would be made prior to the release of the annual program announcement and any changes to the evaluation criteria would be specified therein.

Sections 3401.9(b)(4), 3401.9(c), and 3401.9(d)

CSRS proposes to change these sections to allow CSRS to indicate in each particular grant award document the conditions under which the approved budget or project period may be changed or actual performance may be transferred. For those potential grantees within the scope of the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015, these changes are consistent with the deviation authorities and the Federal Demonstration Project. These changes are included for other potential grantees by the fact that the USDA Uniform Federal Assistance Regulations are not applicable to these other potential grantees.

Section 3410.10

CSRS proposes to add to this section the USDA implementing regulations that apply to Governmentwide Debarment and Suspension (Nonprocurement) and to the Governmentwide Requirement for a Drug-Free Workplace (Grants), 7 CFR part 3017, as amended, the USDA implementing regulations that apply to New Restrictions on Lobbying, 7 CFR part 3018, and the USDA implementing regulation regarding OMB Circular No. A–129, relating to debt collection, 7 CFR part 3. This action will inform the prospective applicants of the specific legal requirements in these areas by listing the regulations which apply to this program.

Section 3401.17

Consistent with the proposal to amend § 3401.7(a), we propose amending § 3401.17 to state that when different evaluation criteria are selected for use in a specific program area, the form set-out in § 3401.17 will not be used.

Throughout the proposed amendment, CSRS has made other minor changes.

List of Subjects in 7 CFR Part 3401

Grant programs—agriculture, Grants administration.

For the reasons set out in the preamble, title 7, subtitle B, chapter XXXIV, part 3401 of the Code of Federal Regulations, is proposed to be revised to read as follows:

CHAPTER XXXIV—COOPERATIVE STATE RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

PART 3401—RANGELAND RESEARCH GRANTS PROGRAM

Subpart A—General

Sec.

Subpart B—Scientific Peer Review of Research Grant Applications

Authority: Section 1470 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (7 U.S.C. 3316).

Subpart A—General

§ 3401.1 Applicability of regulations.

(a) The regulations of this part apply to rangeland research grants awarded under the authority of section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333) to land-grant colleges and universities, State agricultural experiment stations, and colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research, as determined by the Secretary, to carry out rangeland research. The Administrator of the Cooperative State Research Service (CSRS) shall determine and announce, through publication each year of a Notice in the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance or any other appropriate means, research program areas for which proposals will be solicited, to the extent that funds are available.

(b) The regulations of this part do not apply to research grants awarded by the Department of Agriculture under any other authority.

§ 3401.2 Definitions.

As used in this part:

(a) *Administrator* means the Administrator of CSRS and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(b) *Department* means the Department of Agriculture.

(c) *Principal investigator* means a single individual designated by the grantee in the grant application and

approved by the Administrator who is responsible for the scientific and technical direction of the project.

(d) *Grantee* means the entity designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(e) *Research project grant* means the award by the Administrator of funds to a grantee to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research program area identified in the annual solicitation of applications.

(f) *Project* means the particular activity within the scope of one or more of the research program areas identified in the annual solicitation of applications, which is supported by a grant award under this part.

(g) *Project period* means the total length of time that is approved by the Administrator for conducting the research project as outlined in an approved grant application.

(h) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(i) *Awarding official* means the Administrator and any other officer or employee of the Department to whom the authority to issue or modify research project grant instruments has been delegated.

(j) *Peer review group* means an assembled group of experts or consultants qualified by training or experience in particular scientific or technical fields to give expert advice, in accordance with the provisions of this part, on the scientific and technical merit of grant applications in those fields.

(k) *Ad hoc reviewers* means experts or consultants qualified by training or experience in particular scientific or technical fields to render special expert advice, whose written evaluations of grant applications are designed to complement the expertise of the peer review group, in accordance with the provisions of this part, on the scientific or technical merit of grant applications in those fields.

(l) *Research* means any systematic study directed toward new or fuller knowledge and understanding of the subject studied.

(m) *Methodology* means the project approach to be followed and the resources needed to carry out the project.

§ 3401.3 Eligibility requirements.

(a) Except where otherwise prohibited by law, any land-grant college and university, State agricultural experiment station, and college, university, and Federal laboratory having a demonstrable capacity in rangeland research, as determined by the Secretary, shall be eligible to apply for and to receive a project grant under this part, provided that the applicant qualifies as a responsible grantee under the criteria set forth in paragraph (b) of this section.

(b) To qualify as responsible, an applicant must meet the following standards as they relate to a particular project:

(1) Have adequate financial resources for performance, the necessary experience, organizational and technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain such (including proposed subagreements);

(2) Be able to comply with the proposed or required completion schedule for the project;

(3) Have a satisfactory record of integrity, judgment, and performance, including, in particular, any prior performance under grants and contracts from the Federal government;

(4) Have an adequate financial management system and audit procedure which provides efficient and effective accountability and control of all property, funds, and other assets; and

(5) Be otherwise qualified and eligible to receive a research project grant under applicable laws and regulations.

(c) Any applicant who is determined to be not responsible will be notified in writing of such findings and the basis therefore.

§ 3401.4 Matching funds requirement.

In accordance with section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333), except in the case of Federal laboratories, each grant recipient must match the Federal funds expended on a research project based on a formula of 50 percent Federal and 50 percent non-Federal funding.

§ 3401.5 Indirect costs and tuition remission costs.

Pursuant to section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3319), funds made available under this program to recipients other than Federal laboratories shall not be subject to reduction for indirect costs or tuition remission costs. Since indirect costs and tuition remission costs, except in the case of Federal laboratories, are not allowable costs for purposes of this program, such costs may not be used to satisfy the matching requirement set forth in § 3401.4.

§ 3401.6 How to apply for a grant.

(a) After consultation with the Rangeland Research Advisory Board, established pursuant to section 1482 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3335), a request for proposals will be prepared and announced through publications such as the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means of solicitation, as early as practicable each fiscal year. It will contain information sufficient to enable all eligible applicants to prepare rangeland research grant proposals and will be as complete as possible with respect to:

(1) Descriptions of specific research program areas which the Department proposes to support during the fiscal year involved, including anticipated funds to be awarded;

(2) Deadline dates for having proposal packages postmarked;

(3) Name and address where proposals should be mailed;

(4) Number of copies to be submitted;

(5) Forms required to be used when submitting proposals; and

(6) Special requirements.

(b) *Grant Application Kit.* A Grant Application Kit will be made available to any potential grant applicant who requests a copy. This kit contains required forms, certifications, and instructions applicable to the submission of grant proposals.

(c) *Format for research grant proposals.* Unless otherwise stated in the specific program solicitation, the following format applies:

(1) *Grant application.* All research grant proposals submitted by eligible applicants should contain a Grant Application form, which must be signed by the proposing principal investigator(s) and endorsed by the cognizant authorized organizational representative who possesses the necessary authority to commit the applicant's time and other relevant resources.

(2) *Title of project.* The title of the project must be brief (80-character maximum), yet represent the major thrust of the research. This title will be used to provide information to the Congress and other interested parties

who may be unfamiliar with scientific terms; therefore, highly technical words or phraseology should be avoided where possible. In addition, phrases such as "investigation of" or "research on" should not be used.

(3) *Objectives.* Clear, concise, complete, enumerated, and logically arranged statement(s) of the specific aims of the research must be included in all proposals.

(4) *Procedures.* The procedures or methodology to be applied to the proposed research plan should be stated explicitly. This section should include but not necessarily be limited to:

(i) A description of the proposed investigations and/or experiments in the sequence in which it is planned to carry them out;

(ii) Techniques to be employed, including their feasibility;

(iii) Kinds of results expected;

(iv) Means by which data will be analyzed or interpreted;

(v) Pitfalls which might be encountered; and

(vi) Limitations to proposed procedures.

(5) *Justification.* This section should describe:

(i) The importance of the problem to the needs of the Department and to the Nation, including estimates of the magnitude of the problem;

(ii) The importance of starting the work during the current fiscal year; and

(iii) Reasons for having the work performed by the proposing organization.

(6) *Literature review.* A summary of pertinent publications with emphasis on their relationship to the research should be provided and should include all important and recent publications. The citations should be accurate, complete, written in acceptable journal format, and be appended to the proposal.

(7) *Current research.* The relevancy of the proposed research to ongoing and, as yet, unpublished research of both the applicant and any other institutions should be described.

(8) *Facilities and equipment.* All facilities, including laboratories, that are available for use or assignment to the proposed research project during the requested period of support, should be reported and described. Any materials, procedures, situations, or activities, whether or not directly related to a particular phase of the proposed research, and which may be hazardous to personnel, must be explained fully, along with an outline of precautions to be exercised. All items of major instrumentation available for use or assignment to the proposed research project during the requested period of support should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the proposed project to a successful conclusion should be listed.

(9) *Collaborative arrangements.* If the proposed project requires collaboration with other research scientists, corporations, organizations, agencies, or entities, such collaboration must be explained fully and justified. Evidence should be provided to assure peer reviewers that the collaborators involved agree with the arrangements. It should be specifically indicated whether or not such collaborative arrangements have the potential for any conflict(s) of interest. Proposals which indicate collaborative involvement must state which applicant is to receive any resulting grant award, since only one eligible applicant, as provided in § 3401.3, may be the recipient of a research project grant under one proposal.

(10) *Research timetable.* The applicant should outline all important research phases as a function of time, year by year.

(11) *Personnel support.* All personnel who will be involved in the research effort must be identified clearly. For each scientist involved, the following should be included:

(i) An estimate of the time commitments necessary:

(ii) Vitae of the principal investigator(s), senior associate(s), and other professional personnel to assist reviewers in evaluating the competence and experience of the project staff. This section should include curricula vitae of all key persons who will work on the proposed research project, whether or not Federal funds are sought for their support. The vitae are to be no more than two pages each in length, excluding publication listings; and

(iii) A chronological listing of the most representative publications during the past five years shall be provided for each professional project member for whom a curriculum vitae appears under this section. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

(12) *Budget.* A detailed budget is required for each year of requested support. In addition, a summary budget is required detailing requested support for the overall project period. A copy of the form which must be used for this purpose, along with instructions for completion, is included in the Grant Application Kit identified under § 3401.6(b) and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested is allowable under applicable Federal cost principles and can be identified as necessary for successful conduct of the proposed research project. As stated in § 3401.4, each grant recipient must match the Federal funds expended on a research project based on a formula of 50 percent Federal and 50 percent non-Federal funding. As stated in § 3401.5, indirect costs and tuition remission costs are not allowable costs for purposes of this program and, thus, may not be used to satisfy the matching requirement set forth in § 3401.4.

(13) *Research involving special considerations.* A number of situations encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If such situations are anticipated, the proposal must so indicate. It is expected that a significant number of rangeland research grant proposals will involve the following:

(i) *Recombinant DNA molecules.* All key personnel identified in a proposal and all endorsing officials of a proposed performing entity are required to comply with the guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised. The Grant Application Kit, identified in § 3401.6(b), contains forms which are suitable for such certification of compliance.

(ii) *Human subjects at risk.* Responsibility for safeguarding the rights and welfare of human subjects used in any research project supported with grant funds provided by the Department rests with the performing entity. Regulations have been issued by the Department under 7 CFR Part 1c, Protection of Human Subjects. In the event that a project involving human subjects at risk is recommended for award, the applicant will be required to submit a statement certifying that the research plan has been reviewed and approved by the Institutional Review Board at the proposing organization or institution. The Grant Application Kit, identified in § 3401.6(b), contains forms which are suitable for such certification.

(iii) *Laboratory animal care.* The responsibility for the humane care and treatment of any laboratory animal, which has the same meaning as "animal" in section 2(g) of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2132(g)), used in any research project supported with Rangeland Research Grant Program funds rests

with the performing organization. In this regard, all key personnel identified in a proposal and all endorsing officials of the proposed performing entity are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary of Agriculture in 9 CFR part 1, 2, 3, and 4. In the event that a project involving the use of a laboratory animal is recommended for award, the applicant will be required to submit a statement certifying such compliance. The Grant Application Kit, identified in § 3401.6(b), contains forms which are suitable for such certification.

(14) *Current and pending support.* All proposals must list any other current public or private research support, in addition to the proposed project, to which key personnel listed in the proposal under consideration have committed portions of their time, whether or not salary support for the person(s) involved is included in the budgets of the various projects. This section must also contain analogous information for all projects underway and for pending research proposals which are currently being considered by, or which will be submitted in the near future to, other possible sponsors, including other Departmental programs or agencies. Concurrent submission of identical or similar projects to other possible sponsors will not prejudice its review or evaluation by the Administrator or experts or consultants engaged by the Administrator for this purpose. The Grant Application Kit, identified in § 3401.6(b), contains a form which is suitable for listing current and pending support.

(15) *Additions to project description.* Each project description is expected by the Administrator, members of peer review groups, and the relevant program staff to be complete in itself. However, in those instances in which the inclusion of additional information is necessary, the number of copies submitted should match the number of copies of the application requested in the annual solicitation of proposals as indicated in § 3401.6(a)(4). Each set of such materials must be identified with the title of the research project as it appears in the Grant Application and the name(s) of the principal investigator(s). Examples of additional materials may include photographs which do not reproduce well, reprints, and other pertinent materials which are deemed to be unsuitable for inclusion in the proposal.

(16) *Organizational management information.* Specific management information relating to an applicant shall be submitted on a one-time basis prior to the award of a research project grant identified under this part if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by the agency specified in this part once a research project grant has been recommended for funding.

§ 3401.7 Evaluation and disposition of applications.

(a) *Evaluation.* All proposals received from eligible applicants in accordance with eligible research problem or program areas and deadlines established in the applicable request for proposals shall be evaluated by the Administrator through such officers, employees, and others as the Administrator determines are particularly qualified in the areas of research represented by particular projects. To assist in equitably and objectively evaluating proposals and to obtain the best possible balance of viewpoints, the Administrator may solicit the advice of peer scientists, ad hoc reviewers, or others who are recognized specialists in research program areas covered by the applications received. Specific evaluations will be based upon the criteria established in subpart B, § 3401.17, unless CSRS determines that different criteria are necessary for the proper evaluation of proposals in one or more specific program areas, and announces such criteria and their relative importance in the annual program solicitation. The overriding purpose of such evaluations is to provide information upon which the Administrator can make informed judgments in selecting proposals for ultimate support. Incomplete, unclear, or poorly organized applications will work to the detriment of applicants during the peer evaluation process. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* On the basis of the Administrator's evaluation of an application in accordance with paragraph (a) of this section, the Administrator will (1) approve support using currently available funds, (2) defer support due to lack of funds or a need for further evaluations, or (3) disapprove support for the proposed project in whole or in part. With respect to approved projects, the Administrator will determine the project period (subject to extension as provided in § 3401.9(c)) during which the project may be supported. Any deferral or disapproval of an application will not preclude its reconsideration or a reapplication during subsequent fiscal years.

§ 3401.8 Grant awards.

(a) *General.* Within the limit of funds available for such purpose, the awarding official shall make research project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Administrator as the beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's "Uniform Federal Assistance Regulations" (Part 3015 of this title).

(b) *Grant award document and notice of grant award*—(1) *Grant award document.* The grant award document shall include at a minimum the following:

(i) Legal name and address of performing organization or institution to whom the Administrator has awarded a rangeland research project grant under the terms of this part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying grant number assigned by the Department;

(v) Project period, which specifies how long the Department intends to support the effort without requiring recompetition for funds;

(vi) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(vii) Legal authority(ies) under which the research project grant is awarded to accomplish the purpose of the law;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the research project grant award; and

(ix) Other information or provisions deemed necessary by the Department to carry out its granting activities or to

accomplish the purpose of a particular research project grant.

(2) *Notice of grant award.* The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

(c) *Categories of grant instruments.* The major categories of grant instruments by which the Department may provide support are as follows:

(1) *Standard grant.* This is a grant instrument by which the Department agrees to support a specified level of research effort for a predetermined project period without the announced intention of providing additional support at a future date. This type of research project grant is approved on the basis of peer review and recommendation and is funded for the entire project period at the time of award.

(2) *Renewal grant.* This is a document by which the Department agrees to provide additional funding under a standard grant as specified in paragraph (c)(1) of this section for a project period beyond that approved in an original or amended award, provided that the cumulative period does not exceed the statutory limitation. When a renewal application is submitted, it should include a summary of progress to date under the previous grant instrument. Such a renewal shall be based upon new application, de novo peer review and staff evaluation, new recommendation and approval, and a new award instrument.

(3) *Continuation grant.* This is a grant instrument by which the Department agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interests of the Federal government and the public. It involves a long-term research project that is considered by peer reviewers and Departmental officers to have an unusually high degree of scientific merit, the results of which are expected to have a significant impact on the productivity of the Nation's rangelands, and it supports the efforts of experienced scientists with records of outstanding research accomplishments. This kind of document normally will be awarded for an initial one-year period and any subsequent continuation research project grants also will be awarded in one-year increments, but in no case may the cumulative period of the project exceed the statutory limit. The award of a continuation research project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. A grantee must submit a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Such requests must include: An interim progress report detailing all work performed to date; a Grant Application; a proposed budget for the ensuing period, including an estimate of funds anticipated to remain unobligated at the end of the current budget period; and current information regarding other extramural support for senior personnel. Decisions regarding continued support and the actual funding levels of such support in future years usually will be made administratively after consideration of such factors as the grantee's progress and management practices and within the context of available funds. Since initial peer reviews were based upon the full term and scope of the original rangeland research grant application, additional evaluations of this type generally are not required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approval of continued funding.

(4) *Supplemental grant.* This is an instrument by which the Department agrees to provide small amounts of additional funding under a standard, renewal, or continuation grant as specified in paragraphs (c)(1), (c)(2), and (c)(3) of this section and may involve a short-term (usually six months or less) extension of the project period beyond that approved in an original or amended award, but in no case may the cumulative period of the project, including short term extensions, exceed the statutory time limitation. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification of need to warrant such action. A request of this nature normally does not require additional peer review.

(d) *Obligation of the Federal government.* Neither the approval of any application nor the award of any research project grant shall commit or obligate the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 3401.9 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The grantee may not delegate or transfer in whole or in part, to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Change in project plans.* (1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the projects' approved goals. If the grantee or the principal investigator(s) is uncertain as to whether a change complies with this provision, the question shall be referred to the Administrator for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the Department prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the Department prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Department prior to effecting such changes, except as may be allowed in the terms and conditions of a grant award.

(c) *Changes in project period.* The project period determined pursuant to § 3401.7(b) may be extended by the Administrator without additional financial support, for such additional period(s) as the Administrator determines may be necessary to complete, or fulfill the purposes of, an approved project. Any extension, when combined with the originally approved or amended project period, shall be conditioned upon prior request by the grantee and approval in writing by the Department, unless prescribed otherwise in the terms and conditions of a grant award.

(d) *Changes in approved budget.* The terms and conditions of a grant will prescribe circumstances under which

written Departmental approval will be requested and obtained prior to instituting changes in an approved budget.

§ 3401.10 Other Federal statutes and regulations that apply.

Several other Federal statutes and/or regulations apply to grant proposals considered for review or to research project grants awarded under this part. These include but are not limited to:

7 CFR part 1c—USDA implementation of the Federal Policy for the Protection of Human Subjects;

7 CFR part 1.1—USDA implementation of Freedom of Information Act;

7 CFR part 3—USDA implementation of OMB Circular A–129 regarding debt collection;

7 CFR part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964;

7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A–110, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance;

7 CFR part 3017, as amended—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

7 CFR part 3018—USDA implementation of New Restrictions on Lobbying Imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans;

7 CFR part 3407—CSRS procedures to implement the National Environmental Policy Act;

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs; and

34 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

§ 3401.11 Other conditions.

The Administrator may, with respect to any research project grant or to any class of awards, impose additional conditions prior to or at the time of any award when, in the Administrator's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Subpart B—Scientific Peer Review of Research Grant Applications

§ 3401.12 Establishment and operation of peer review groups.

Subject to § 3401.7, the Administrator will adopt procedures for the conduct of peer reviews and the formulation of recommendations under § 3401.16.

§ 3401.13 Composition of peer review groups.

Peer review group members will be selected based upon their training or experience in relevant scientific or technical fields, taking into account the following factors:

(a) The level of formal scientific or technical education by the individual;

(b) The extent to which the individual has engaged in relevant research, the capacities in which the individual has done so (e.g., principal investigator, assistant), and the quality of such research;

(c) Professional recognition as reflected by awards and other honors received from scientific and professional organizations outside of the Department;

(d) The need of the group to include within its membership experts from various areas of specialization within relevant scientific or technical fields;

(e) The need of the group to include within its membership experts from a variety of organizational types (e.g., universities, industry, private consultant(s)) and geographic locations; and

(f) The need of the group to maintain a balanced membership, e.g., minority and female representation and an equitable age distribution.

§ 3401.14 Conflicts of interest.

Members of peer review groups covered by this part are subject to relevant provisions contained in Title 18 of the United States Code relating to criminal activity, Department regulations governing employee responsibilities and conduct (part O of this title), and Executive Order 11222, amended.

§ 3401.15 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a.), and implementing Departmental regulations (part 1 of this title).

§ 3401.16 Proposal review.

(a) All research grant applications will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to the request for proposals (e.g., relationship of application to research program area). Proposals that do not fall within the guidelines as stated in the annual request for proposals will be eliminated from competition and will be returned to the applicant. Proposals whose budgets exceed the maximum allowable amount for a particular program area as announced in the request for proposals may be considered as lying outside the guidelines.

(b) All applications will be reviewed carefully by the Administrator, qualified officers or employees of the Department, the respective merit review panel, and ad hoc reviewers, as required. Written comments will be solicited from ad hoc reviewers when required, and individual written comments and in-depth discussions will be provided by peer review group members prior to recommending applications for funding. Applications will be ranked and support levels recommended within the limitation of total available funding for each research program area as announced in the applicable request for proposals.

(c) Except to the extent otherwise provided by law, such recommendations are advisory only and are not binding on program officers or on the awarding official.

§ 3401.17 Review criteria.

(a) Federally funded research supported under these provisions shall be designed to, among other things, accomplish one or more of the following purposes: (1) Improve management of rangelands and agricultural land as integrated systems for more efficient utilization of crops and waste products in the production of food and fiber; (2) improve methods of managing rangeland watersheds to maximize efficient use of water, improve water quality, and water conservation, to protect against onsite and offsite damage to rangeland resources from floods, erosion, and other detrimental influences, and to remedy unsatisfactory and unstable rangeland conditions; (3) increase revegetation and rehabilitation of rangelands, including the control of undesirable species of plants; (4) continue to satisfy human food and fiber needs; (5) enhance the long-term viability and competitiveness of the

food production and agricultural system of the United States within the global economy; (6) expand economic opportunities in rural America and enhance the quality of life for farmers, ranchers, rural citizens, and society as a whole; (7) improve the productivity of the American agricultural system and develop new agricultural crops and new uses for agricultural commodities; (8) develop information and systems to enhance the environment and the natural resource base upon which a sustainable agricultural economy depends; or (9) enhance human health. In carrying out its review under § 3401.16, the merit review panel will use the following form upon which the evaluation criteria to be used are enumerated, unless, pursuant to § 3401.7(a), different evaluation criteria are specified in the annual solicitation of proposals for a particular program:

Peer Panel Scoring Form

Proposal Identification No. _____
Institution and Project Title _____

I. Basic Requirement

Proposal falls within guidelines?_____Yes_____No. If no, explain why proposal does not meet guidelines under comment section of this form.

II. Selection Criteria

	Score 1–10	Weight factor	Score X weight factor	Comments
1: Overall scientific and technical quality of proposal		10		
2. Scientific and technical quality of the approach		10		
3. Relevance and importance of proposed research to solution of specific areas of inquiry		6		
4. Feasibility of attaining objectives; adequacy of professional training and experience, facilities and equipment		5		

Score _____
Summary Comments _____

(b) Proposals satisfactorily meeting the guidelines will be evaluated and scored by the peer review panel for each criterion utilizing a scale of 1 through 10. A score of one (1) will be considered low and a score of ten (10) will be considered high for each selection criterion. A weighted factor is used for each criterion.

Done at Washington, DC, this 27th day of October 1992.

C.I. Harris,

Associate Administrator, Cooperative State Research Service.

[FR Doc. 92–26530 Filed 11–3–92; 8:45 am]

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federal register

Wednesday
November 4, 1992

Part IV

Department of Transportation

Federal Aviation Administration

Explosive Detection Systems; Proposed Criteria for Certification; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 27026; Notice No. 92-16]

RIN 2120-AE77

Explosive Detection Systems; Proposed Criteria for Certification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Criteria for Certification of Explosive Detection Systems.

SUMMARY: The Federal Aviation Administration is proposing to establish criteria for the certification of explosives detection systems to screen checked baggage for international flights. These criteria would establish minimum performance requirements for explosive detection systems. This action is being taken to implement Section 108 of the Aviation Security Improvement Act of 1990, which requires the Administrator to certify such systems prior to mandating their deployment. This notice includes those portions of the criteria that do not contain sensitive security information.

DATES: Comments must be received on or before January 4, 1993.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 27026, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked: "Docket No. 27026." Comments on this notice may be examined in room 915G on weekdays, except on Federal holidays, between 8:30 a.m. and 5 p.m.

Comments that include or reference national security information or sensitive security information should not be submitted to the public docket. Such comments should be sent to the following address in a manner consistent with applicable requirements and procedures for safeguarding sensitive security information: Federal Aviation Administration, Office of Civil Aviation Security Operations, Attention: FAA Security Control Point (ACO-320A), Docket No. ACP-27026-C, 800 Independence Avenue, SW., Washington, DC 20591

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Butterworth, Director (ACP-1), Office of Civil Aviation Security Policy and Planning, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591, telephone 202-267-8058.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the notice by submitting such written data, views, or arguments as they may desire. Comments should identify the docket or notice number and be submitted in triplicate to either the Rules Docket or the FAA Security Control Point address specified above. All comments received, as well as a report summarizing each substantive unclassified public contact with FAA personnel on this notice, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this notice. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with their comments a preaddressed stamped postcard on which the following statement is made: "Comments to Docket No. 27026." When the comment is received, the postcard will be dated, time stamped and mailed to the commenter.

Availability of Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center APA-200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice or docket number of this notice.

Persons interested in being placed on a mailing list for future proposals should request from the above office a copy of Advisory Circular No. 11-2A, which describes the application procedure.

Release of National Security and Sensitive Information

The Assistant Administrator for Civil Aviation Security has determined that certain portions of the proposed criteria are of national security concern and require safeguarding from unauthorized disclosure pursuant to Executive Order 12356 (National Security Information). Further, pursuant to 14 CFR part 191 (Withholding Security Information from Disclosure Under the Air Transportation Security Act of 1974), certain unclassified information has been determined to be sensitive security information. Upon request, the complete criteria will be provided to prospective manufacturers of explosive detection equipment, and other interested parties with a bona fide need to have the complete criteria, provided such persons have appropriate authorization for access to U.S. Government national security information and/or security sensitive information.

Availability of Criteria

Persons requesting access to, or a copy of, the complete text (including all classified and sensitive security information) of the "Criteria for Certification of Explosive Detection Systems (EDS)," may write to the Federal Aviation Administration, Office of Civil Aviation Security Operations, Attention: FAA Security Control Point (ACO-320A), Docket No. ACP-27026-C, 800 Independence Avenue, SW., Washington, DC 20591.

Requestors must include information regarding authorizations and security clearances for access to U.S. Government national security information, and sufficient explanatory information supporting the request to demonstrate a bona fide need to know the information contained in the criteria.

Background

The FAA invested in early explosive detection research and development (R&D) efforts beginning in 1977. In conjunction with these early R&D efforts, in 1983 the FAA established its first formal, internal statement of detection and false alarm performance goals for explosive detectors for checked baggage, air cargo, carry-on baggage and passengers. In 1986, based upon additional information and further evaluation, these FAA explosive detector goals were revised and upgraded to reflect the changing terrorist threat to civil aviation. Portions of these performance requirements were further revised in August 1989 in anticipation of the use of explosive detection systems (EDS) for screening international checked baggage.

As a result of the tragic bombing of Pan American World Airways Flight 103 over Lockerbie, Scotland, in December 1988, there was an increased focus on explosive detection capabilities and the desire to prevent in an expedient manner recurrences of such an event. This tragedy also prompted Congressional action, which resulted in Public Law 101-45 (June 30, 1989). Public Law 101-45 provides in pertinent part that—

Not later than thirty days after the date of enactment of this Act, the Federal Aviation Administrator shall

initiate action, including such rulemaking or other actions as necessary, to require the use of explosive detection systems that meet minimum performance standards requiring the application of technology equivalent to or better than thermal neutron analysis technology at such airports (whether located within or outside the United States) as the Administrator determines that the installation and use of such system is necessary to ensure the safety of air commerce. The Administrator shall complete these actions within sixty days of enactment of the Act.

As a result, on July 10, 1989, the FAA issued a notice of proposed rulemaking to amend 14 CFR part 108 to require U.S. air carriers to use EDS to screen checked baggage on international flights (54 FR 28985). On September 5, 1989, the FAA promulgated a final rule (14 CFR 108.20, effective on October 5, 1989) on the deployment by air carriers of such systems for screening checked baggage (54 FR 36938), when their security programs are amended by the FAA. Section 108.20 provides that—

When the Administrator shall require an amendment under § 108.25, each certificate holder required to conduct screening under a security program shall use an explosive detection system that has been approved by the Administrator to screen checked baggage on international flights in accordance with the certificate holder's security program.

In August 1989, the President's Commission on Aviation Security and Terrorism was established by Executive Order 12686 to "* * * review and evaluate policy options in connection with aviation security, with particular reference to the destruction * * *" of Pan Am Flight 103 over Lockerbie, Scotland. In May 1990, the final report of the President's Commission generally criticized the FAA's explosive detection requirements, and specifically criticized the detection capabilities and false alarm rates of the thermal neutron analysis explosive detection system. The report went on to recommend that the FAA "* * * should undertake a vigorous effort to marshal the necessary expertise to develop and test effective explosive detection systems."

In separate reports issued subsequent to the report of the President's Commission, both the National Academy of Sciences and the Congressional Office of Technology Assessment recommended that FAA set standards for EDS equipment that require detection of substantially smaller amounts of explosives than previously specified. In addition, they made recommendations regarding false alarm rates, throughput and other parameters, and stated that it is generally accepted that no single technology can currently, or in the near future be expected to, meet these substantially more stringent requirements.

In the context of this ongoing evaluation of how to implement 14 CFR 108.20, Congress enacted the Aviation Security Improvement Act of 1990 (Act) Public Law 101–604. The Act implements many of the recommendations contained in the report of the President's Commission. Section 108 of the Act amends Title III of the Federal Aviation Act of 1958 (49 U.S.C. App. 1341–1358) by adding, among others, a new section 320, deployment of explosive detection equipment. Section 320 provides in pertinent part that—

No deployment or purchase of any explosive detection equipment pursuant to section 108.7(b)(8) and 108.20 of title 14, Code of Federal Regulations, or any similar rule, shall be required after the date of the enactment of this section, unless the Administrator certifies that, based on the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the Federal Aviation Administration, such equipment alone or as part of an integrated system can detect under realistic air carrier operating conditions the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft.

The Act further mandates that the FAA complete an intensive review of security threats to civil aviation, and establish and carry out a program to accelerate R&D efforts. As evidence of the concern for prompt action, section 107 of the Act states in pertinent part that—

It shall be the purpose of the [accelerated research and development] program to develop and have in place not later than 36 months such new equipment and procedures as are needed to meet the technological challenges presented by terrorism.

Development of the Proposed Criteria

The proposed criteria contained in this notice are responsive to the statutory mandate for testing and certifying EDS equipment. In October 1991, the FAA completed an internal review of all previous studies, reviews, analyses and other related materials. The review was the most extensive examination yet conducted of previous technical reviews and available (and often highly classified) information on the amounts, types and configurations of explosives used in attempted or successful acts of sabotage against civil aviation.

The review provided the basis for developing proposed criteria that are conservative and consistent with the Act. The proposed criteria are based upon the best scientific, intelligence and investigative information currently available. The amounts and types of explosives specified in the proposed criteria reflect the advice and counsel of the intelligence community, including, among others, the Federal Bureau of Investigation, the Central Intelligence Agency, the Department of Defense, and the Department of State. Also, the FAA consulted with a number of independent experts in the scientific community (both from within and outside the Federal government) in early 1992, including prominent scientists on the Aviation Security R&D Subcommittee of the FAA Research, Engineering and Development Advisory Committee, as well as the National Academy of Sciences.

The FAA continues to work with the intelligence and scientific communities to analyze potential changes in the methods used by terrorists. Further, the FAA is engaged in an aggressive research program to develop additional scientific and analytical data to more precisely quantify the elements of the criteria, and to perform laboratory and field test validations of those elements. Although the FAA anticipates final decisions on certification criteria in early 1993, it is possible that at some future time these ongoing projects may identify changes in the amounts, configurations, and types of explosive material which would be likely to be used to cause catastrophic damage to commercial aircraft. In that case, the criteria will be amended.

The FAA recognizes the requirement of the Act to move expeditiously to put in place new equipment to combat the technological challenges of terrorism. The development of these proposed certification criteria is the first essential step in the process of deploying effective explosive detection systems to improve aviation security. It is critical to facilitating efforts of manufacturers and system integrators to develop, combine and test such systems. The FAA believes that there may be combinations of technologies available now (or in the near future) that can be effectively integrated to meet these proposed criteria, and encourages potential vendors to combine their resources to build systems as rapidly as possible.

These are proposed criteria. After public comment, FAA will put them in

final (or interim final) form in early 1993. FAA also acknowledges there may be some uncertainty that depends on the results of ongoing projects. The FAA solicits comments and information from vendors that will identify systems, and related certification criteria, that will effectively achieve the required levels of detection. In this manner, the combination of ongoing research and vendor development efforts is expected to achieve rapid development of available technologies that will be most cost-effective.

Certification Test Plan

The FAA is preparing a separate management plan outlining the framework for EDS certification testing. This draft management plan for certification testing, which is based upon the general testing protocols being developed independently for the FAA by the National Academy of Sciences, is expected to be completed within 90 days after final approval of the general testing protocols by the Academy. Upon completion of this document, a Notice of Availability of the draft management plan for certification testing will be published in the **Federal Register.**

Executive Order 12291 (Federal Regulation)

The FAA has determined that the establishment of criteria for certification of explosives detection systems and related steps such as the certification test plan are preliminary to decisions on the deployment of approved EDS under 14 CFR 108.20. Any final deployment decision will be the subject of further review, according to the requirements of E.O. 12291. In this regard, the Department determined that the rule authorizing deployment of an EDS for screening international flights was a major rule as defined in the Executive Order. Based upon circumstances and information available at the final rule stage in 1989, the FAA determined that the EDS available at that time, but which may not meet the criteria proposed in this notice (the Thermal Neutron Analysis (TNA) device), would be cost-beneficial. The FAA's deployment strategy has been to require deployment of effective EDS equipment in the most cost-effective manner.

However, as the certification process and policies affecting deployment of any EDS proceed, further review will be given to all relevant considerations, including changed circumstances, that should bear on the ultimate decisions on the timing and scope of deployment.

Some information relevant to decisions on deployment was developed in the 1989 final rule (54 FR 36946) in terms of the development, installation, and annual operating costs of 2 TNA device. The FAA invites comments on estimates of the cost of manufacturing, installing and operating systems which would meet the proposed (or alternative) criteria. Comments received will be considered in updating the regulatory impact analysis of the 1989 final rule which, along with other circumstances at the time, will influence future decisions on the scope and timing of deployment.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires agencies to review rules that may have a "significant economic impact on a substantial number of small entities." Small entities are independently owned and operated small businesses and small not-for-profit organizations.

Under FAA Order 2100.14A, the criterion for a "substantial number" is a number that is not less than 11 and that is more than one third of the small entities subject to the rule. This Order indicates size and "significant impact" thresholds for specific entity types related to the aircraft industry. There is no entity categorization in this Order for manufacturers of this type of equipment. The closest applicable Standard Industrial Classification for these manufacturers is No. 3728, which is for "manufacturers of aircraft parts and auxiliary equipment not elsewhere classified." For such small entities, the applicable size threshold is 175 employees. The FAA's criteria for "significant impact" for each of these manufacturers is $13,130 per year.

The small entities that could be potentially affected by the implementation of this proposed action are small business enterprises that are or might seek to become manufacturers of EDS equipment. The number of small business enterprises that are in, or might seek to enter, this market cannot be determined.

The proposed action would impose minimal costs on those small business enterprises. These costs are primarily for obtaining access to or copies of the classified and sensitive security information portions of these criteria. Because the incremental cost imposed by this proposed action is expected to be small and certainly less than the aforementioned threshold level ($13,130 per year), the FAA finds that this proposed action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), There are no requirements for information collection associated with this proposal.

The Proposed Criteria (Excluding Sensitive Portions)

The following sets forth the entire text of the proposed criteria except those portions of the document that contain either national security information that requires safeguarding pursuant to Executive Order 12356, or sensitive security information that requires safeguarding pursuant to 14 CFR part 191.

Note: Paragraph markings (U) indicate that the content of the paragraph is unclassified consistent with standard procedures for paragraph markings in the original classified document.)

"Criteria for Certification of Explosives Detection Systems"

Introduction

(U) Prior to any requirement for the deployment or purchase of explosive detection equipment under 14 CFR 108.7(b)(8) and 14 CFR 108.20, Section 108 of the Aviation Security Improvement Act of 1990, Public Law 101–604, mandates the FAA to certify that, based upon the results of tests conducted pursuant to protocols developed in consultation with expert scientists from outside the FAA, such equipment can detect under realistic air carrier operating conditions the amounts, configurations and types of explosive material likely to be used to cause catastrophic damage to commercial aircraft.

(U) These criteria establish the minimum acceptable performance requirements for an EDS to meet the mandate of Public Law 101–604 for certification by the FAA, and supersede previous EDS performance requirements established by the FAA.

Explosive Detection System (EDS) Definition

(U) An EDS is an automated device, or combination of devices, which has the ability to detect, in passenger checked baggage, the amounts of different types of explosives as specified by the Federal Aviation Administration. The term "automated" means that the ability of the system to detect explosives, prior to the initial automated system alarm, does not depend on human skill, vigilance, or judgement.

[*Sensitive Portion of Document Deleted:* In the full text of the classified

EDS Certification Criteria document, this portion of the document addresses alarm resolution requirements subsequent to the initial automated alarm.]

General Operational Requirements

(U) The EDS must detect explosives from among all other materials found in checked baggage.

(U) The detection must not be dependent on the shape, position, or orientation of the explosive, or the configuration of an improvised explosive device (IED).

(U) The EDS must not pose a health hazard to the operators or the public (e.g., see 10 CFR 20, 51 [Nuclear Radiation] and 21 CFR 1020 [Ionizing Radiation]).

(U) The EDS must not cause damage or significant residual change to the luggage or its contents.

Detection Requirements

(U) The detection of commercial and military explosives in baggage is affected by the type, quantity, and configuration of explosive, as well as the bag and its contents. The EDS must reliably detect a mix of threat types and quantities of explosives selected by the FAA when any of these explosive materials are present in checked baggage.

(U) The CLASSIFIED tables on the following page set forth the explosive detection criteria for checked baggage.

Checked Baggage—Explosives Detection Criteria

[*Sensitive Portion of Document Deleted:* In the full text of the classified EDS Certification Criteria document, this portion of the document contains two tables that establish: (1) The types and quantities of explosive material that must be detected, and the minimum detection rate for each category of explosive; and (2) the system performance requirements for minimum detection rate and maximum false alarm rate. The throughput requirement that follows appears in these tables, and is quoted below because it is the only item that is not sensitive security information.]

(U) Throughput: Minimum Automated Processing Rate of 450 bags/hour

Overall Performance Requirements

(U) All the criteria pertaining to detection rate, false alarm rate and throughput are based exclusively on the fully automated component(s) or element(s) of the system.

[*Sensitive Portion of Document Deleted:* In the full text of the classified EDS Certification Criteria document, this portion of the document includes information regarding requirements for no human intervention, detection rate, and false alarm rate. The throughput requirement that follows appears in this section, and is included below because it is not considered sensitive security information.]

(U) The cumulative system throughput processing rate during the certification tests must be at least 450 bags/hour.

Other Operational Considerations

(U) In addition to the mandatory criteria discussed above, there are a number of other operational considerations that will influence any future FAA decision to require the purchase, deployment and use of EDS equipment for screening international baggage. While these considerations are not mandatory for certification of EDS equipment, they should be factored into development and design decisions made by potential manufacturers and vendors of EDS equipment.

(U) The FAA has not yet established precise EDS parameters which would serve to define what is practical or cost-effective under realistic air carrier operating conditions (e.g., the precise physical characteristics such as unit weight and size, or the precise unit cost). Given the variety of airport and air carrier operating environments, the FAA does not wish to foreclose the development of technologies which may work under some, but not all, air carrier operating conditions.

(U) The FAA can, however, provide potential manufacturers and vendors, as well as air carriers, and airports with the following guidance. In general, EDS equipment that is less costly, smaller and lighter is more practical for use in a variety of airports than a system that is more expensive, larger and heavier—especially if such equipment would require separate structures or substantial modifications of existing terminal structures for installation or operation. Also, systems which are easily operated and maintained, and proven to be reliable, will be more acceptable than systems that require extensive specialized training for operation, calibration and maintenance.

(U) In addition, systems with throughput rates that substantially exceed the minimum rate established in the certification criteria are operationally more efficient in many applications, and are less likely to cause delays and congestion when large numbers of passenger bags must be screened in short periods of time. Further, systems that can be more easily integrated into existing passenger and baggage processing systems would presumably be more acceptable to potential users.

(U) Trade-offs are often made among these and other operational considerations during the course of system design. For example, reliability, maintainability and availability can usually be improved, but often at the expense of an increase in purchase price. Such trade-offs will be considered in decisionmaking to require deployment of certified EDS systems.

System Certification

(U) The FAA will certify EDS equipment based upon the mandatory detection criteria for the purpose of developing a list of equipment that would be eligible for use by air carriers at the point deployment is made mandatory. Actions must be taken under 14 CFR 108.25 to establish a requirement to deploy EDS to screen international checked baggage.

(U) The FAA will not require air carriers to purchase and deploy certified EDS equipment unless it is demonstrated that such equipment is available in sufficient quantities to satisfy air carrier needs, adaptable to various air carrier and airport operating environments, practical for use under realistic air carrier operating conditions (e.g., cost, size, weight, reliability, maintainability, availability, etc.), and cost-effective.

(U) The FAA will only certify complete systems. It will not certify or approve for use, individual component devices. Prior to final certification, the FAA will require manufacturers and vendors to provide full system documentation including, but not limited to, recommended system installation and calibration procedures, minimum essential test equipment and devices, routine field testing procedures and test objects to be used, routine and emergency operating procedures, field preventative maintenance and repair procedures, and training programs.

Certification Testing

(U) Testing of EDS equipment presented to the FAA for certification will be performed in accordance with the FAA Explosives Detection System Certification Test Plan based upon A General Testing Protocol for Bulk Explosive Detection Systems (National Academy of Sciences, Materials Testing Board, final draft August 1991). The FAA Technical Center in Atlantic City, New Jersey will perform certification tests for producers of candidate explosive detection systems. The EDS Certification Test Director at the Aviation Security Research and

Development Service is the point of contact. The Test Director can be reached at (609) 484–4840; Facsimile (609) 383–1973

[Note: The draft certification test plan for evaluating candidate EDS against the criteria will be available from the Test Director in the near future following publication of a Notice of Availability in the **Federal Register**.]

(U) Manufacturers seeking FAA certification for their candidate EDS must submit complete descriptive data and their test results to the FAA prior to receiving permission to ship their equipment to the FAA Technical Center. The FAA reserves the right to visit the manufacturers' facilities for technical quality assurance purposes, require and/or monitor in-house tests, and review associated data prior to granting permission to ship equipment for certification testing.

(U) All direct costs associated with testing and certification (e.g., insurance, shipping, installation, set-up, technical operation, maintenance, calibration, disassembly, and FAA laboratory testing costs) must be borne by the manufacturers or vendors.

Component Testing

(U) As part of the FAA Security R&D program, the FAA Technical Center has evaluated, and continues to evaluate, devices whose capabilities do not meet all of these performance criteria. For instance, some of the devices that the FAA has or is evaluating have relatively low throughput rates and higher false alarm rates than the maximum acceptable rate. Similarly, the FAA will continue to evaluate detection devices that are designed to search for one or more components of an IED other than the explosive materials. It will be possible, under certain circumstances, for a manufacturer of an explosive detection device (EDD) to have the FAA test and evaluate the device, even when it is not expected to fully meet the EDS performance criteria (e.g., false alarm rate or throughput).

(U) Although only complete systems can be certified, FAA may attest to the performance of, but not certify or approve for use, EDDs or individual components. Attesting to the performance of EDDs is intended to assist manufacturers and vendors who are seeking partners with whom they can create a functioning EDS composed of multiple devices.

(U) Testing of EDDs will only be conducted: (1) On a first come, first served basis; (2) if adequate resources and facilities are available at the FAA Technical Center to permit such testing; (3) at a lower precedence than EDS certification testing; and (4) if the FAA determines from the manufacturer's test data that there is a substantial likelihood that the device will meet the minimum detection criteria for one or more categories of explosives specified in these criteria.

(Authority: 49 U.S.C. App. 1354, 1356, 1357, 1358a, 1358c, 1421, 1424, and 1511; 49 U.S.C. 106(g).)

Issued in Washington, D.C. on October 23, 1992.

O.K. Steele,

Assistant Administrator for Civil Aviation Security.

[FR Doc. 92–26299 Filed 10–30–92; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
November 4, 1992

Part V

Environmental Protection Agency

40 CFR Part 112, et al.

Civil Penalty Provisions for the Oil Pollution Prevention Regulations, Clean Water Act Notification Provision and Prohibition Against Unauthorized Discharges of Oil and Hazardous Substances; Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 112, 114 and 117

[FRL-4529-4]

Civil Penalty Provisions for the Oil Pollution Prevention Regulations, Clean Water Act Notification Provision and Prohibition Against Unauthorized Discharges of Oil and Hazardous Substances

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule.

SUMMARY: The Environmental Protection Agency (EPA) today publishes an interim final rule which limits the applicability of the administrative penalty assessment provisions of the Agency's regulations on oil pollution prevention and reportable quantities for hazardous substances. These provisions are being amended in light of new authorities for the assessment of civil administrative and judicial penalties under the Oil Pollution Act (OPA).

DATES: Effective date: The interim final rule shall be effective November 4, 1992. Comments: EPA will accept post-publication comments until December 4, 1992.

ADDRESSES: Persons may mail two copies of all comments on this interim final rule to Cecilia L. Smith, Office of Waste Programs Enforcement, (OS-510), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The administrative record of this rulemaking is available and persons may inspect comments at the above address.

FOR FURTHER INFORMATION CONTACT: Cecilia L. Smith, Office of Waste Programs Enforcement, 5502G, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 603-8943.

SUPPLEMENTARY INFORMATION:

I. Preamble

Oil Pollution Prevention Regulations

The civil penalty provision of the oil pollution prevention regulations (40 CFR 112.6), and the related civil penalty provisions and procedures at 40 CFR part 114 were promulgated in 1974 pursuant to section 311(j) of the Federal Water Pollution Control Act, 33 U.S.C. 1321, also known as the Clean Water Act (CWA) (39 FR 31602, August 29, 1974). Part 112 sets out, for onshore and offshore non-transportation-related facilities, requirements designed to prevent discharges of oil into "navigable waters and adjoining shorelines." 40 CFR 112.6 and 114.1 each provide that violations of the oil pollution prevention regulations may result in the assessment of an administrative penalty of not more than $5,000 per day of violation. 40 CFR 112.6 and 114.1 are based on authority in CWA section 311(j)(2), which, before its amendment by the Oil Pollution Act of 1990 (OPA), limited civil penalties assessed for violations of regulations issued under section 311(j) to "not more than $5,000 for each such violation."

The OPA repealed CWA section 311(j)(2) and amended CWA section 311(b)(6) to provide that violators of CWA section 311(j) may be assessed a Class I penalty of up to $10,000 per violation (up to a maximum assessment of $25,000), or a Class II penalty of up to $10,000 per day of violation (up to a maximum assessment of $125,000). Further, section 311(b)(6) now provides for different administrative proceedings for these two classes of penalties. Respondents in Class I cases are given a reasonable opportunity to be heard and to present evidence, but the hearing need not meet the requirements of the Administrative Procedure Act (APA) for formal adjudications (5 U.S.C. 554). Class II hearings, however, are on the record and subject to 5 U.S.C. 554.

As a result of the savings provision in section 6001 of the OPA, §§ 112.6 and 114.1 continue in effect until repealed, amended or superseded. Today's regulation amends 40 CFR 112.6 and 114.1 by making them applicable only to violations occurring prior to August 18, 1990, the date of enactment of the Oil Pollution Act.

The OPA also amended CWA section 311(b) to provide for the judicial assessment of civil penalties of up to "$25,000 per day of violation."

Notification of Discharge(s)

40 CFR 117 generally establishes the reportable quantities for hazardous substances designated under 40 CFR 116 for purposes of CWA section 311. 40 CFR 117.21 sets out the notification requirement for discharges of designated hazardous substances pursuant to CWA section 311(b)(5). 40 CFR 117.22(a) provides that violation(s) of the notification requirement may result in a fine of not more than $10,000 or imprisonment for not more than one year, or both. 40 CFR 117.22(a) is based on language in former CWA section 311(b)(5), which was later amended by the OPA. Section 4301 of the OPA amended CWA section 311(b)(5) to provide that any criminal penalty for violation of the notification requirement in CWA section 311(b)(5) be "in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both." As a result of the savings provision in section 6001 of the OPA, 40 CFR 117.22(a) continues in effect until repealed, amended or superseded. Today's regulation amends § 117.22(a) by making it applicable only to violations occurring prior to August 18, 1990, the date of enactment of the Oil Pollution Act.

Prohibition Against Unauthorized Discharges

40 CFR 117.22(b) provides that an owner, operator or a person in charge of a vessel or facility that has discharged a designated hazardous substance exceeding the reportable quantity may be subject to a civil administrative penalty assessment of up to $5,000 per violation. The regulation also states that the Agency may pursue a judicial civil penalty action, seeking up to $50,000 per violation; where the discharge resulted from willful negligence or willful misconduct, the maximum judicial civil penalty is $250,000. 40 CFR 117.22(b) is based on language in former CWA section 311(b)(6)(A), which was amended by the OPA.

Section 4301 of OPA repealed CWA section 311(b)(6) and replaced it with a new penalty assessment framework. CWA section 311(b)(6) now provides that violators of the prohibition against unauthorized discharges in section 311(b)(3) may be assessed a Class I penalty of up to $10,000 per violation (up to a maximum assessment of $25,000) or a Class II penalty of up to $10,000 per day of violation (up to a maximum assessment of $125,000).

As a result of the savings provision in section 6001 of the OPA, 40 CFR 117.22 continues in effect until repealed, amended or superseded. Today's regulation amends 40 CFR 117.22 by making it applicable only to violations occurring prior to August 18, 1990, the date of enactment of the Oil Pollution Act.

Section 4301 of OPA also added CWA section 311(b)(7), which provides for the judicial assessment of civil penalties for violations of CWA section 311(b)(3) of up to "$25,000 per day of violation" or up to "$1,000 per barrel of oil or unit of reportable quantity of hazardous substances." For violations of section 311(b)(3) that are a result of gross negligence or willful misconduct, the violator now is subject to a civil penalty of "not less than $100,000 and not more than $3,000 per barrel or oil or unit of reportable quantity or hazardous substance discharged."

Today's Interim Final Regulation

Congress clearly intended that violations of the oil pollution prevention regulations, violations of the section 311(b)(5) notification requirement, and violations of the prohibition against unauthorized discharges in section 311(b)(3) occurring after the OPA's passage should be subject to a more rigorous penalty framework than previously was the case. Furthermore, the OPA establishes procedures that differ from those set forth in 40 CFR 114. The Agency's intent under 40 CFR parts 112, 114 and 117 has always been to allow civil penalty assessments up to the maximum amount allowed under the statute. In light of the recent statutory change to the maximum amount of civil penalties provided for violations of CWA section 311(j) regulations, CWA section 311(b)(5) and CWA section 311(b)(3), the Agency's existing regulations on this matter need to be changed to conform to the statutory amendments. The Agency believes that such a conforming change reflecting explicit Congressional intent does not warrant notice and opportunity for comment under the Administrative Procedure Act, and that there is good cause for publishing this rule in interim final form. For the same reason, the Agency believes there is good cause for making the rule effective immediately. Consequently, this rule is published as an interim final rule amending 40 CFR 112.6, 114.1 and 117.22 with regard to any violations occurring after the date of the OPA's enactment (August 18, 1990). 40 CFR 112.6, 114.1 and 117.22 still apply, however, to violations that occurred prior to August 18, 1990.

Interim Procedures

As a result of today's interim final rule, there will be no promulgated rules containing procedures for assessing administrative penalties for CWA Section 311 regulatory violations or violations of section 311(b)(3) occurring after August 18, 1990. The Agency, however, will use two existing sets of procedures as guidance until it completes a rulemaking to implement the new CWA penalty provisions. For Class I penalties, the Agency will follow generally the procedures set forth in the recently proposed 40 CFR 28, Non-APA Consolidated Rules of Practice for Administrative Assessment of Civil Penalties (56 FR 29996, July 1, 1991). These procedures will be used as guidance until the regulation is published in the Federal Register as final, at which time they will have the force of law. For the assessment of CWA section 311 Class II penalties, the Agency intends to use as guidance the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits at 40 CFR 22. 40 CFR 22 satisfies the requirements of the APA for adjudicatory hearings on the record. The Agency intends in the near future to amend 40 CFR 22 to incorporate the OPA Amendments to the CWA.

II. Procedural Requirements

A. Review Under Executive Order 12291

Executive Order No. 12291 requires that all Proposed and final regulations be classified as major or non-major rules. The Agency has determined that this final rule is not a major rule under Executive Order 12291 because it will not result in any of the impacts delineated in the Executive Order.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.* requires that a Regulatory Flexibility Analysis be performed for all rules that are likely to have "significant economic impact on a substantial number of small entities." This regulation will not impose significant costs on any small entities. The overall impact on small entities is expected to be slight. In addition, the rule is procedural and does not impose additional regulatory requirements on small entities. Therefore, as required by the Regulatory Flexibility Act, EPA hereby certifies that this final rule will not have a significant impact on small entities.

C. Review Under the Paperwork Reduction Act

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

III. Additional Opportunity for Public Comment

EPA has issued today's rule as an interim final rule in order to provide a limited opportunity until December 4, 1992 for public comment. After evaluating any comments which are received, EPA will decide whether a response is warranted.

List of Subjects

40 CFR Part 112

Oil pollution, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 114

Administrative practice and procedure, Oil pollution, Penalties.

40 CFR Part 117

Hazardous substances, Penalties, Reporting and recordkeeping requirements, Water pollution control.

Dated: October 26, 1992.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, parts 112, 114 and 117 of chapter I of title 40 of the Code of Federal Regulations, are amended as set forth below.

PART 112—OIL POLLUTION PREVENTION

1. The authority citation for part 112 is revised to read as follows:

Authority: Sec. 311, 501(a), Federal Water Pollution Control Act (sec. 2, Pub. L. 92-500, 86 Stat. 816 et seq. (33 U.S.C. 1251 et seq.)); sec. 4(b), Pub. L. 92-500, 86 Stat. 897; 5 U.S.C. Reorg. Plan of 1970 No. 3 (1970), 35 FR 15623, 2 CFR 1966-1970 Comp.; E.O. 11735, 38 FR 21243, 3 CFR, superseded by E.O. 12777, 56 FR 54757.

2. Section 112.6 is revised to read as follows:

§ 112.6 Civil penalties for violation of oil pollution prevention regulations.

(a) Applicability of section. This section shall apply to violations specified in paragraph (b) of this section which occurred prior to August 18, 1990.

(b) Owners or operators of facilities subject to § 112.3 (a), (b) or (c) who violate the requirements of this part 112 by failing or refusing to comply with any of the provisions of § 112.3, § 112.4 or § 112.5 shall be liable for a civil penalty of not more than $5,000 for each day such violation continues. Civil penalties shall be imposed in accordance with procedures set out in part 114 of this subchapter D.

PART 114—CIVIL PENALTIES FOR VIOLATION OF OIL POLLUTION PREVENTION REGULATIONS

1. The authority citation for part 114 is revised to read as follows:

Authority: Secs. 311, 501(a), Pub. L. 92-500, 86 Stat. 868, 885 (33 U.S.C. 1321, 1361(a)).

2. Section 114.1 is revised to read as follows:

§ 114.1 General applicability.

(a) Applicability of section. This section shall apply to violations specified in paragraph (b) of this section which occurred prior to August 18, 1990.

(b) Owners or operators of facilities subject to § 112.3 (a), (b) or (c) of this subchapter who violate the requirements of part 112 of this subchapter D by failing or refusing to comply with any of the provisions of §§ 112.3, 112.4, or 112.5 of this subchapter shall be liable for a civil penalty of not more than $5,000 for each day such violation continues. Civil penalties shall be assessed and compromised in accordance with this part. No penalty shall be assessed until the owner or operator shall have been given notice and an opportunity for hearing in accordance with this part.

PART 117—DETERMINATION OF REPORTABLE QUANTITIES FOR HAZARDOUS SUBSTANCES

1. The authority citation for part 117 is revised to read as follows:

Authority: Secs. 311 and 501(a), Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), ("the Act") and Executive Order 11735, superseded by Executive Order 12777, 56 FR 54757.

2. Section 117.22 is revised to read as follows:

§ 117.22 Penalties.

(a) Applicability of section. This section shall apply to violations specified in paragraphs (b) and (c) of this section which occurred prior to August 18, 1990.

(b) Any person in charge of a vessel or an onshore or offshore facility who fails to notify the United States Government of a prohibited discharge pursuant to § 117.21 (except in the case of a discharge beyond the contiguous zone, where the person in charge of a vessel is not otherwise subject to the jurisdiction of the United States) shall be subject to a fine of not more than $10,000 or imprisonment for not more than one year, or both, pursuant to section 311(b)(5).

(c) The owner, operator or person in charge of a vessel or an onshore or offshore facility from which is discharged a hazardous substance designated in 40 CFR part 116 in a quantity equal to or exceeding in any 24-hour period, the reportable quantity established in this part (except in the case of a discharge beyond the contiguous zone, where the person in charge of a vessel is not otherwise subject to the jurisdiction of the United States, shall be assessed a civil penalty of up to $5,000 per violation under section 311(b)(6)(A). Alternatively, upon a determination by the Administrator, a civil action will be commenced under section 311(b)(6)(B) to impose a penalty not to exceed $50,000 unless such discharge is the result of willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge, in which case the penalty shall not exceed $250,000.

Note: The Administrator will take into account the gravity of the offense and the standard of care manifest by the owner, operator, or person in charge in determining whether a civil action will be commenced under section 311(b)(6)(B). The gravity of the offense will be interpreted to include the size of the discharge, the degree of danger or harm to the public health, safety, or the environment, including consideration of toxicity, degradability, and dispersal characteristics of the substance, previous spill history, and previous violation of any spill prevention regulations. Particular emphasis will be placed on the standard of care and the extent of mitigation efforts manifest by the owner, operator, or person in charge.

[FR Doc. 92-26661 Filed 11-3-92; 8:45 am]
BILLING CODE 6560-50-M

Federal Register

Wednesday
November 4, 1992

Part VI

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Coushatta Tribe of Louisiana; Approved Tribal-State Compact; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming; Coushatta Tribe of Louisiana; Approved Tribal-State Compact

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. § 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary-Indian Affairs, Department of the Interior, through his delegated authority has approved the Tribal-State Compact for the Conduct of Class III Gaming Between the Coushatta Tribe of Louisiana and the State of Louisiana, which was enacted on September 4, 1992, and amended on October 29, 1992.

DATES: This action is effective November 4, 1992.

ADDRESSES: Office of Tribal Services, Bureau of Indian Affairs, Department of the Interior, MS/MIB 4603, 1849 "C" Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Interim Staff Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–0994.

Dated: October 29, 1992.

Eddie F. Brown,

Assistant Secretary-Indian Affairs.

[FR Doc. 92–26735 Filed 11–3–92; 8:45 am]

BILLING CODE 4310–02–M

Federal Register

Wednesday
November 4, 1992

Part VII

Department of the Interior

Bureau of Indian Affairs

Pueblo of Santa Ana Liquor Code; Notice

DEPARTMENT OF THE INTERIOR

Pueblo of Santa Ana Liquor Code

Dated: October 22, 1992.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This Notice is published in accordance with authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8, and in accordance with the Act of August 15, 1953, 67 Stat. 586, 18 U.S.C. 1161. I certify that Resolution No. 92–R–09, adopting the Pueblo of Santa Ana Liquor Code, was duly adopted by the Pueblo of Santa Ana Tribal Council on April 28, 1992. The Code provides for the regulation of the distribution, sale, and consumption of liquor in the area of Indian Country under the jurisdiction of the Pueblo of Santa Ana, New Mexico, and replaces Ordinance No. 85–0–01 (1985), which was published in the **Federal Register** on April 22, 1985, 50 FR 15787. I further certify that Resolution No. 92–R–10, amending the Pueblo of Santa Ana Liquor Code, was duly adopted by the Pueblo of Santa Ana Tribal Council on April 28, 1992. The amendment authorizes Sunday sales of alcohol by the drink by licensed retailers.

DATES: This code and its amendment are effective as of November 4, 1992.

FOR FURTHER INFORMATION CONTACT: Chief, Branch of Judicial Services, Division of Tribal Government Services, 1849 C Street, NW., MS 2611–MIB, Washington, DC 20240–4001; telephone (202) 208–4400.

SUPPLEMENTARY INFORMATION: The Pueblo of Santa Ana Liquor Code, title 10, of the Santa Ana Tribal Code, is to read as follows:

SANTA ANA PUEBLO TRIBAL CODE

Title 10: Liquor Code

Chapter One: General Provisions

Section 101: Findings

The Tribal Council finds as follows:

A. The introduction, possession and sale of alcoholic beverages on the Santa Ana Indian Reservation since time immemorial has been clearly recognized as a matter of special concern to the Pueblo and its members and to the United States;

B. Under federal law, and as a matter of inherent tribal sovereignty, the question of when and to what extent alcoholic beverages may be introduced into and sold or consumed within Indian Country is to be decided by the governing body of the tribe, so long as possession or sale of alcoholic beverages within Indian Country is also consistent with the law of the state within which it occurs; and

C. It is desirable that the Tribal Council establish clear standards governing the sale and possession of alcoholic beverages within the Santa Ana Indian Reservation, both to establish a consistent and reasonable tribal policy on this important subject, as well as to facilitate economic development projects within the Santa Ana Indian Reservation that may involve outlets for the sale and consumption of alcoholic beverages.

Section 102: Definitions

As used in this statute, the following definitions shall apply:

A. "Council" means the Tribal Council of the Pueblo of Santa Ana.

B. "Governor" means the Governor of the Pueblo of Santa Ana.

C. "Person" means any natural person, partnership, corporation, joint venture, association, or other entity.

D. "Sale" means any exchange, barter, or other transfer of goods from one person to another, with or without consideration.

E. "Liquor" or "Alcoholic Beverage" includes the four varieties of liquor commonly referred to as alcohol, spirits, wine and beer, and all fermented, spiritous, vinous or malt liquors or combinations thereof, mixed liquor, any part of which is fermented, spiritous, vinous, or malt liquor, or any otherwise intoxicating liquid, including every liquid or solid or semi-solid or other substance, patented or not, containing alcohol, spirits, wine or beer and intended for oral consumption.

F. "Licensed Premises" means the location within the Santa Ana Indian Reservation at which a person licensed to sell alcoholic beverages under this Title carries on such business, and includes all related and associated facilities under the control of the licensee. Where a licensee's business is carried on as part of the operation of a golf course, moreover, the "licensed premises" shall be deemed to include the entire golf course and associated areas.

Section 103: Relation to Other Pueblo Laws

All prior statutes, ordinances, and resolutions enacted by the Pueblo of Santa Ana Tribal Council regulating, authorizing, prohibiting or in any way relating to the sale, possession or consumption of alcoholic beverages within the Santa Ana Indian Reservation are hereby repealed and have no further force or effect, except to the extent expressly provided herein.

Section 104: Sovereign Immunity Preserved

Nothing in this statute shall be construed as a waiver or limitation of the sovereign immunity of the Pueblo of Santa Ana.

Chapter Two: Sale, Possession And Consumption Of Alcoholic Beverages

Section 201: Prohibition

The sale, introduction for sale, purchase, or other dealing in alcoholic beverages, except as is specifically authorized by this title, is prohibited within the Santa Ana Indian Reservation.

Section 202: Possession for Personal Use

Possession of alcoholic beverages for personal use by persons 21 years of age or older shall not be unlawful within the Santa Ana Indian Reservation, so long as such alcoholic beverages were lawfully purchased from an establishment duly licensed to sell such beverages, whether on or off the Santa Ana Indian Reservation, unless otherwise prohibited herein.

Section 203: Transportation Through Reservation Not Affected

Nothing herein shall pertain to the otherwise lawful transportation of alcoholic beverages through the Santa Ana Indian Reservation by persons remaining upon public highways and where such beverages are not delivered, sold or offered for sale to anyone within the Santa Ana Indian Reservation.

Section 204: Requirement of State License; Conformity With State Law

No person shall introduce alcoholic beverages into the Santa Ana Indian Reservation for sale or resale, purchase such beverages at wholesale, or sell or distribute alcoholic beverages within the Santa Ana Indian Reservation, unless such person is licensed to make such purchases and sales by the State of New Mexico, and in that case, any such sales must be strictly in compliance with the requirements of state law applicable to such license. Nothing herein shall be deemed to establish any standards or requirements pertaining to the sale, possession or consumption of alcoholic beverages within the Santa Ana Indian Reservation that are any less strict than the comparable standards and requirements of the laws of the State of New Mexico.

Section 205: Requirement of Pueblo License

No person shall sell any alcoholic beverage within the Santa Ana Indian Reservation, or offer any such beverage for sale, unless such person holds a license issued by the Pueblo under the provisions of this title.

Section 206: All Sales for Personal Use

No person licensed to sell alcoholic beverages within the Santa Ana Indian Reservation shall sell any such beverage for resale, but all such sales shall be for the personal use of the purchaser. Nothing herein shall prohibit a duly licensed wholesale dealer in alcoholic beverages from delivering such beverages to properly licensed retailers within the Santa Ana Indian Reservation, so long as such sales and deliveries are otherwise in conformity with law.

Section 207: Package Sales and Sales of Liquor by the Drink Permitted

Sales of alcoholic beverages on the Santa Ana Indian Reservation may be in package form or for consumption on the premises, or both, so long as the seller is properly licensed by the State of New Mexico and by the Pueblo to make sales of that type. No seller of alcoholic beverages shall permit any person to bring onto premises where liquor by the drink is authorized to be sold any alcoholic beverages purchased elsewhere.

Section 208: No Sales to Minors

Alcoholic beverages may be sold within the Santa Ana Indian Reservation only to persons of the age of 21 years or older.

Section 209: Hours and Days of Sale

No sale of alcoholic beverages shall be made within the Santa Ana Indian Reservation except between the hours of 10 a.m. and 12 midnight, Monday through Saturday.

Section 210: Sales on Election Day

No sales of alcoholic beverages shall be permitted to any person within the Santa Ana Indian Reservation on any Tribal, State or Federal election day, until one (1) hour after the polls are closed.

Section 211: Other Prohibitions on Sales

The Tribal Council may, by duly enacted resolution, establish other days or times on which sales of alcoholic beverages will not be permitted within the Santa Ana Indian Reservation. The Council shall give notice of any such enactment promptly to all licensees within the Santa Ana Indian Reservation. In addition, the Governor of the Pueblo may, in the event of a bona fide emergency, and by written order, prohibit the sale of any alcoholic beverages within the Santa Ana Indian Reservation for a period of time not to exceed 48 hours. The Governor shall give prompt notice of such emergency order to all licensed sellers of alcoholic beverages within the Santa Ana Indian Reservation. No such emergency order may extend beyond 48 hours, unless during that time the Tribal Council meets and determines that the emergency requires a further extension of such order.

Section 212: Location of Sales

No person otherwise licensed to sell alcoholic beverages within the Santa Ana Indian Reservation shall make such sales except at the locations specifically designated in such license; provided, however, that nothing in this title shall preclude any person holding a dispenser's license under New Mexico state law from dispensing alcoholic beverages at a public celebration pursuant to a special dispenser's permit, duly obtained under state law and authorized by the Governor of the Pueblo, at such location where such celebration is being held.

Section 213: Sales to Be Made By Adults

No person shall take any order, make any delivery, or accept payment for any sale of alcoholic beverages within the Santa Ana Indian Reservation, or otherwise have any direct involvement in any such sale, who is less than 21 years of age.

Section 214: All Sales Cash

No person licensed to sell alcoholic beverages within the Santa Ana Indian Reservation shall make any such sale without receiving payment therefore by cash, check or credit card at the time the sale is made; provided, that nothing herein shall preclude a licensee from receiving a delivery of alcoholic beverages from a duly authorized wholesaler where arrangements have been made to pay for such delivery at a different time.

Chapter Three: Pueblo Licenses

Section 301: Persons Entitled to be Licensed

No person shall be entitled to receive a license from the Pueblo to sell alcoholic beverages within the Santa Ana Indian Reservation unless such person:

A. Has a valid license permitting such person to sell alcoholic beverages issued by the Superintendent of Regulation and Licensing of the State of New Mexico, or his or her successor;

B. Has entered into a lease or other contractual undertaking with the Pueblo authorizing such person to commence business within the Santa Ana Indian Reservation, or has a contractual relationship with a person holding such lease or other contractual agreement, which relationship has been expressly approved by the Pueblo, in which case the lessee shall also be a co-applicant for the license;

C. Has submitted to the Governor or his Designee an application for such license, on a form provided by the Pueblo, together with a license fee in the amount of One Thousand Dollars ($1,000.00) for an applicant holding a retailer's or dispenser's license under New Mexico law, and Two Hundred Dollars ($200.00) for an applicant holding only a restaurant (beer and wine) license under New Mexico law.

Section 302: Issuance of License

Upon a determination that an applicant for a Pueblo liquor license satisfies the requirements of Section 301 of this Chapter, the Governor shall issue the license, authorizing the applicant to engage in sales of alcoholic beverages within the Santa Ana Indian Reservation to no greater extent than is permitted under the New Mexico state license held by the applicant, but subject also to all the terms and conditions of this title.

Section 303: Term; Renewal; Fee

Each license issued hereunder shall have a term of one (1) year from the date of issuance, provided that such license shall be automatically renewable for additional periods of one year each by any licensee who has complied fully with the terms and provisions of the license and of this title during the term of the license, and upon submission to the Pueblo of a renewal fee, no less than thirty (30) days prior to the expiration date of the license, in the same amount as the original license fee provided in section 301(C) of this chapter.

Section 304: Display of License

Every person licensed by the Pueblo to sell alcoholic beverages within the Santa Ana Indian Reservation shall prominently display the Pueblo license and the state license at all locations where such person sells alcoholic beverages within the Santa Ana Indian Reservation.

Section 305: Revocation of License

A. Upon determining that any person licensed by the Pueblo to sell alcoholic

beverages under the provisions of this chapter is for any reason no longer qualified to hold such license under the provisions of Section 301 hereof, or has been found by any forum of competent jurisdiction to have violated the terms of his New Mexico state license or of any provision of this title, the Governor shall immediately serve written notice upon such licensee directing that he show cause within ten (10) days why his Pueblo license should not be revoked. The notice shall specify the precise grounds relied upon for the proposed revocation.

B. If the licensee fails to respond to such notice within ten (10) days of service of such notice, the Governor shall issue an order revoking his license, effective immediately. The licensee may, within the 10-day period, file with the Office of the Governor a written response and request for a hearing before the Santa Ana Tribal Court.

C. At the hearing, the licensee, who may be represented by counsel, shall present evidence and argument directed at the issue of whether or not the asserted grounds for the proposed revocation are in fact true, and whether such grounds justify revocation of the license. The Pueblo may present other evidence as it deems appropriate.

D. The court after considering all of the evidence and arguments shall issue a written decision either upholding the license, revoking the license, or imposing some lesser penalty (such as a temporary suspension or a fine), and such decision shall be final and conclusive.

Chapter Four: Offenses

Section 401: Purchase From or Sale to Unauthorized Persons

Within the boundaries of the Santa Ana Indian Reservation, no person shall purchase any alcoholic beverage at retail except from a person licensed by the Pueblo under the provisions of this title; no person except a person licensed by the Pueblo under the provisions of this title shall sell any alcoholic beverage at retail; nor shall any person sell any alcoholic beverage for resale to any person other than a person properly licensed by the Pueblo under the provisions of this title.

Section 402: Sale to Minors

A. No person shall sell or provide any alcoholic beverage to any person under the age of 21 years.

B. It shall be a defense to an alleged violation of this Section that the purchaser presented to the seller an apparently valid identification document showing the purchaser's age to be 21 years or older.

Section 403: Purchase by Minor

No person under the age of 21 years shall purchase, attempt to purchase or possess any alcoholic beverage.

Section 404: Sale to Person Under the Influence of Alcohol

No person shall sell any alcoholic beverage to a person who the seller has reason to believe is under the influence of alcohol or who the seller has reason to believe intends to provide such alcoholic beverage to a person under the influence of alcohol.

Section 405: Purchase by Person Under the Influence of Alcohol

No person under the influence of alcohol shall purchase any alcoholic beverage within the boundaries of the Santa Ana Indian Reservation.

Section 406: Drinking in Public Places

No person shall consume any alcoholic beverage in any public place within the Santa Ana Indian Reservation except on premises licensed by the State of New Mexico and the Pueblo to sell alcoholic beverages by the drink.

Section 407: Bringing Liquor Onto Licensed Premises

No person shall bring any alcoholic beverage for personal consumption onto any premises within the Santa Ana Indian Reservation where liquor is authorized to be sold by the drink, unless such beverage was purchased on such premises.

Section 408: Open Containers Prohibited

No person shall have an open container of any alcoholic beverage in a public place, other than on premises licensed for the sale of alcoholic beverages by drink, or in any automobile, whether moving or standing still. This Section shall not apply to empty containers such as aluminum cans or glass bottles collected for recycling.

Section 409: Use of False or Altered Identification

No person shall purchase or attempt to purchase any alcoholic beverage by the use of any false or altered identification document that falsely purports to show the individual to be 21 years of age or older.

Section 410: Penalties

A. Any person convicted of committing any violation of this Chapter, or of any other section of this Act, shall be subject to punishment of up to one (1) year imprisonment or a fine not to exceed Five Thousand Dollars ($5,000.00), or to both such imprisonment and fine.

B. Any person not a member of the Santa Ana Indian Pueblo, upon committing any violation of any provision of this Chapter or any other section of this title, may be subject to a civil action for trespass, and upon having been determined by the court to have committed the alleged violation, shall be found to have trespassed upon the lands of the Pueblo of Santa Ana, and shall be assessed such damages as the court deems appropriate in the circumstances.

C. Any person suspected of having violated any provision of this Chapter or any other section of this Act, shall, in addition to any other penalty imposed hereunder, be required to surrender any alcoholic beverages in such person's possession to the officer making the arrest or issuing the complaint, which beverages shall only be returned upon a finding by the court after a trial that the individual committed no violation of this title.

Section 411: Jurisdiction

Any and all actions, whether civil or criminal, pertaining to alleged violations of this title, or seeking any relief against the Pueblo or any officer or employee of the Pueblo with respect to any matter addressed by this title, shall be brought in the Tribal Court of the Pueblo of Santa Ana, which court shall have exclusive jurisdiction thereof.

Amendment To Santa Ana Liquor Code

The Santa Ana Liquor Code, title 10, section 209, is amended by deleting the text of the section entirely, and substituting the following in its place:

Section 209: Hours and Days of Sale

Alcoholic beverages shall be sold, delivered or consumed on licensed premises within the Santa Ana Indian Reservation only during the following hours and days:

A. On Mondays through Saturdays, between the hours of 10 a.m. and 12 midnight.

B. On Sundays, from 12 noon until midnight, so long as the licensee has obtained a permit for Sunday sales from the New Mexico Superintendent of Regulation and Licensing, and provided further that sales of alcoholic beverages on Sundays shall be limited to sales by

the drink only, for consumption on the premises of the licensee.

Eddie F. Brown,

Assistant Secretary—Indian Affairs.

[FR Doc. 92-26734 Filed 11-3-92; 8:45 am]

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Federal Register

Wednesday
November 4, 1992

Part VIII

Environmental Protection Agency

40 CFR Part 230

Exception From Wetlands Mitigation Sequence for Alaska; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 230

[FRL-4530-6]

Exception From Wetlands Mitigation Sequence for Alaska

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise the Clean Water Act Section 404(b)(1) Guidelines (Guidelines) to provide an exception from the wetlands mitigation sequence (i.e., avoidance, minimization, and compensation) for proposed discharges of dredged or fill material into wetlands in States with less than one percent loss of historic wetlands acreage. Under this proposed revision, proposed discharges of dredged or fill material into wetlands in the State of Alaska, which is the only State with less than one percent loss of his historic wetlands acreage, would be excepted from current provisions of the Guidelines that require that all proposed discharges of dredged or fill material represent the least environmentally damaging practicable alternative (i.e., avoid adverse impacts to the aquatic ecosystem). In addition, this proposed revision would no longer require, for discharges of dredged or fill material into wetlands in the State of Alaska, that all appropriate and practicable measures to compensate for potential unavoidable adverse impacts on the aquatic ecosystem be undertaken. For the State of Alaska, minimization of impacts would constitute the requisite mitigation necessary to meet the mitigation requirements of the Guidelines. The Administrator of EPA, in consultation with the Secretary of the Interior and the State of Alaska, will monitor wetlands losses in the State to determine if the assumptions underlying this rule remain valid and whether the exception would continue to apply. This rule is being proposed in accordance with the President's August 9, 1991, Wetlands Plans.

DATES: Written comments must be submitted on or before December 21, 1992.

ADDRESSES: Written comments should be submitted to: Mr. Gregory E. Peck, Chief, Wetlands and Aquatic Resources Regulatory Branch, Wetlands Alaska Docket (A-104F), U.S. EPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Details are available from Mr. John Goodin at (202) 260-9910 or Mr. Clifford Rader at (202) 260-6587.

SUPPLEMENTARY INFORMATION:

Background

The Federal Water Pollution Control Act of 1972 (renamed in 1977 as the Clean Water Act) established, at section 404, a regulatory program for the evaluation of permit applications for proposed discharges of dredged or fill material into waters of the United States, including wetlands. Section 404(a) authorizes the Secretary of the Army, acting through the Chief of Engineers, to issue permits specifying disposal sites in waters of the U.S. in accordance with regulatory requirements of the Section 404(b)(1) Guidelines (Guidelines). The Guidelines, which were published as final regulations on December 24, 1980 (45 FR 85336), are the substantive environmental criteria used in evaluating discharges of dredged or fill material under section 404 of the Clean Water Act.

The Guidelines provide four general restrictions in § 230.10 that must be met before a permit can be issued authorizing the discharge of dredged or fill material into waters of the U.S. Today's rulemaking involves two of these restrictions: The prohibition in § 230.10(a) against any discharge where there is a less damaging practicable alternative and the requirement in § 230.10(d) that appropriate and practicable steps be taken to minimize potential harm to the aquatic ecosystem. As required by the Guidelines and clarified in an EPA/Department of the Army Memorandum of Agreement (MOA) concerning the determination of mitigation (55 FR 9210, March 12, 1990), these two regulatory provisions are the basis for the Guidelines' three step sequence for mitigating potential adverse impacts to the aquatic environment associated with a proposed discharge (i.e., first avoidance, then minimization, and lastly compensation for unavoidable impacts to aquatic resources).

The mitigation process is designed to establish a consistent approach to be used in ensuring that all practicable measures have been taken to reduce potential adverse impacts associated with proposed projects in wetlands and other aquatic systems. The first step in the sequence requires the evaluation of potential alternative sites to locate the proposed project so that aquatic impacts are avoided to the maximum extent practicable. As the next step in the sequence, remaining impacts are minimized, by making changes in project design or construction methods that reduce overall project impacts. Lastly, after all practicable steps have been taken to avoid and minimize potential adverse effects, compensation for remaining unavoidable impacts is sought by such measures as wetlands creation or restoration in order to replace lost aquatic functions and values. The result is prevention of wetlands impacts when reasonable and practicable; but where the actions necessary to prevent such impacts are not available and capable of being done, associated losses of wetland and aquatic functions and values are offset to the extent appropriate and practicable with compensatory mitigation. As recognized in the MOA, no net loss of wetlands is a goal of the section 404 regulatory program.

On August 9, 1991, the President issued a plan for protecting wetlands (President's plan or plan) that contains proposed provisions to "improve and streamline the current regulatory system." One element of the plan provides that "States with less than a 1 percent historic rate of wetlands development will be able to satisfy permit requirements through minimization." Based on historic loss data (Dahl, T.E., 1990. "Wetlands Losses in the United States 1780's to 1980's" U.S. Department of the Interior, Fish and Wildlife Service, Washington, DC, 21 pp.), this provision is applicable only in the State of Alaska. According to this data, using the estimated 170,200,000 acres of wetlands present in Alaska in the late 1700's, only 200,000 acres have been converted, or 0.1 percent of the State's original wetland acreage. Such a low loss rate in Alaska indicates a minimal impact to the State's wetlands. An estimated 45 percent of Alaska's surface area remains wetlands.

No other State in the U.S. has experienced so low a percentage loss of original wetlands acreage as has Alaska. The average wetlands loss for States outside of Alaska is approximately 53 percent of their original wetlands acreage.

In addition, the U.S. Fish and Wildlife Service has determined that 40 percent of Alaska's wetlands—68 million acres, more than the total remaining wetlands in Florida, Louisiana, Minnesota, Texas, North Carolina, Michigan, Wisconsin, Georgia, Maine, and South Carolina combined—are already in federal or state conservation units. In many cases in Alaska, there are no practicable alternatives for development except in wetlands due to factors such as topography and climate. For example, in Alaska, because of the high proportion of land that is wetland, it is difficult to

avoid impacts to wetlands when development and growth occur. Similarly, due to the high proportion of wetlands in Alaska, it is difficult to compensate for wetland loss. In most other states, compensation takes the form of restoration of historic wetlands. In the case of Alaska, because of its extremely low loss rate, it is exceptionally difficult to restore historic wetlands. In addition, opportunities for compensatory mitigation are reduced when loss rates are low and there are many unimpacted wetlands.

EPA and the Department of the Army issued a joint memorandum to their field staff on January 24, 1992, that emphasized existing mitigation provisions in the Guidelines and the EPA/Department of Army MOA that currently apply to most permit decisions in Alaska. Consistent with the Guidelines and MOA, the guidance noted that the agencies should strive for avoidance of impacts to existing aquatic resources, and that there is a general goal of a minimum of one for one functional replacement of wetlands. However, the guidance emphasized that the MOA also states that "this minimum requirement may not be appropriate and practicable, and thus may not be relevant in all cases." This statement is further explained in footnote seven of the MOA, which states in part:

> For example, there are certain areas where, due to hydrological conditions, the technology for restoration or creation of wetlands may not be available at present, or may otherwise be impracticable. In addition, avoidance, minimization, and compensatory mitigation may not be practicable where there is a high proportion of land which is wetlands.

The guidance memorandum notes that this footnote makes it clear that there are areas where it may not be practicable to restore or create wetlands; in such cases compensatory mitigation is not required under the Guidelines.

Section 404(b)(1) grants authority to the Administrator to develop guidelines for use by the Secretary of the Army (i.e., the Corps of Engineers) in designating disposal sites for dredged or fill material into waters of the United States. Section 404(b)(1) commits to the Administrator's discretion the exact terms of those guidelines, which "shall be based upon criteria comparable to the criteria applicable to the territorial seas, the contiguous zone, and the ocean under [Clean Water Act] section 403(c)." EPA believes that, if there is a reasonable basis for treating Alaska wetlands differently from wetlands in the rest of the United States (based on the geographic, climatic, historical, and other factors summarized above), section 404(b)(1) provides sufficient discretion to the Administrator to modify the section 404(b)(1) Guidelines to treat Alaska differently for wetlands sequencing purposes.

Summary of Proposed Rule

Today's proposed rule would revise the Guidelines to provide an exception from the wetlands mitigation sequence for proposed discharges of dredged or fill material into wetlands in the State of Alaska. This rule is being proposed in accordance with the President's August 9, 1991, Plan and in recognition of: (1) The relatively low historic loss of wetlands in the State of Alaska; the State retains over 99 percent of its original wetlands acreage, which totals approximately 170,000,000 acres, or 45 percent of the State's total surface area; (2) the significant percentage of Alaska's wetlands being managed as Federal and State conservation units; (3) the limited availability of upland alternatives for development projects given the high percentage of wetlands in Alaska, as well as large expanses of permafrost, mountainous terrain, glaciers and lakes; and (4) the technical and logistical difficulties in restoring or creating wetlands in large portions of Alaska; some of these difficulties include permafrost hydrology, unavailability of restoration sites, and limited creation opportunities due to the high proportion of wetlands.

Under this proposed revision, proposed discharges of dredged or fill material into wetlands in the State of Alaska would not be subject to current provisions of the Guidelines that require that all proposed discharges of dredged or fill material represent the least environmentally damaging practicable alternative. In addition, this proposed revision would no longer require, for discharges of dredged or fill material into wetlands in the State of Alaska, that all appropriate and practicable measures to compensate for potential unavoidable adverse impacts on the aquatic ecosystem be undertaken. For discharges of dredged or fill material into wetlands in the State of Alaska, minimization of impacts would constitute the requisite mitigation necessary to meet the requirements of the Guidelines. The proposed rule would revise § 230.10 (a) and (d), and add a new subsection at 230.10(a)(6) to codify these changes. Conforming changes are also proposed at §§ 230.5(c), 230.5(j), and 230.12(a)(3).

EPA notes that subpart H of part 230, which remains unchanged, details possible actions to minimize adverse impacts of a proposed discharge. These actions may be undertaken to minimize adverse impacts of proposed discharges in the State of Alaska, although the wetlands development and restoration techniques discussed in § 230.75(d) are no longer applicable to Alaska as part of the wetland mitigation sequence which applies in other States. Appropriate and practicable steps to minimize potential adverse impacts of proposed discharges in Alaska, as elsewhere, would continue to include the use of such techniques as altering project size or configuration.

EPA also notes that nothing in this rule affects the current provision of § 230.10(c) of the Guidelines, which requires that no permit can be issued where the proposed discharge would result in significant degradation of the aquatic environment. In addition, § 230.10(b) remains unchanged, which requires, among other things, that no discharge be permitted if it violates State water quality standards or jeopardizes threatened or endangered species.

It is important to note that the exception in Alaska from the requirements found at § 230.10(a) applies only to requirements under section 404 of the Clean Water Act. Today's proposed rule does not eliminate the need to conduct other applicable alternative analyses potentially required by such statutes as the National Environmental Policy Act, Endangered Species Act, or other regulations or Federal planning processes.

It is also important to note that this rule does not affect the ability of the State of Alaska to protect what it considers to be high value wetlands using its authority under section 401 of the Clean Water Act, applicable authorities under the Coastal Zone Management Act, or other authority under State or Federal law. Neither does this rule affect the ability of local governments to protect wetlands through their power to regulate land use, to the extent allowable under Alaska law. With regard to the most relevant Federal statutes, section 401(a)(1) of the Clean Water Act provides that "No license or permit shall be granted if certification has been denied by the State * * *". Similarly, the Coastal Zone Management Act (16 U.S.C. 1456(c)(3)(A)) provides that "No license or permit shall be granted by the Federal agency until the State or its designated agency has concurred with the applicant's certification * * *", although under certain circumstances the Secretary of Commerce retains the right to over-rule the State.

In addition, the Administrator of EPA, in consultation with the Secretary of the Interior and the State of Alaska, will monitor wetlands losses in the State to determine if the assumptions underlying this rule remain valid and whether the exception would continue to apply.

Efforts underway by the State of Alaska to develop a wetlands categorization approach as part of a State regulatory package for freshwater wetlands may prove useful for the identification and protection of high value wetlands. Examples of the types of wetlands which may be identified as being of high value include, but are not necessarily limited to, important anadromous fish spawning habitat and significant spawning and nursery habitat for commercially valuable marine fisheries. This rule is not intended to, and should not conflict with the State's efforts. Indeed, EPA specifically invites comment on how Alaska's wetlands regulatory initiative might be integrated into EPA's final rule, and how Federal agencies might most appropriately apply Alaska's system for identifying high value wetlands. More generally, EPA invites public comment on whether or not it would be appropriate for this rule to more directly address the protection of high value wetlands as identified through Alaska's wetlands categorization process, including the option of maintaining the full sequencing of avoidance, minimization, and compensation for high value wetlands, and if appropriate, how this might be accomplished.

This proposal will become effective 30 days after publication of a final rule in the **Federal Register**.

Paperwork Reduction Act

Today's rule places no additional information collection or record-keeping burden on respondents. Therefore, an information collection request has not been prepared and submitted to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Executive Order 12291 and the Regulatory Flexibility Act

The Environmental Protection Agency has determined that the revisions to this regulation do not constitute a major proposal requiring the preparation of a regulatory analysis under E.O. 12291. This rule was submitted to the Office of Management and Budget for Review under E.O. 12291. Pursuant to section 605(b) of the Regulatory Flexibility Act, the Environmental Protection Agency, certifies that this regulation will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 230

Alaska, Water pollution control, Wetlands.

William K. Reilly,

Administrator, Environmental Protection Agency.

Accordingly, 40 CFR part 230 is proposed to be amended as follows:

40 CFR CHAPTER I—[AMENDED]

PART 230—SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OF DISPOSAL SITES FOR DREDGED OR FILL MATERIAL

1. The authority citation for part 230 continues to read as follows:

Authority: 33 U.S.C. 1344(b) and 1361(a).

2. Section 230.5 is amended by revising paragraphs (c) and (j) to read as follows:

§ 230.5 General procedures to be followed.

* * * * *

(c) Examine practicable alternatives to the proposed discharge, that is, not discharging into the waters of the U.S. or discharging into an alternative aquatic site with potentially less damaging consequences (§ 230.10(a)), except as provided in § 230.10(a)(6).

* * * * *

(j) Identify appropriate and practicable changes to the project plan to minimize the environmental impact of the discharge, as provided for in § 230.10(d) and based upon the specialized methods of minimization of impacts in subpart H.

* * * * *

3. Section 230.10 is amended by revising the introductory text of paragraph (a), by adding paragraph (a)(6), and by revising paragraph (d) to read as follows:

§ 230.10 Restrictions on Discharge.

* * * * *

(a) Except as provided under § 404(b)(2) and in paragraph (a)(6) of this section, no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

* * * * *

(6) The requirements in paragraph (a) of this section are not applicable to discharges occurring in wetlands in States with less than one percent loss of historic wetlands acreage.[1]

* * * * *

(d)(1) Except as provided under § 404(b)(2) and in paragraph (d)(2) of this section, no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem. Subpart H identifies such possible steps.

(2) For discharges into wetlands in States with less than one percent loss of historic wetlands acreage, however, actions to compensate for adverse impacts of discharges through wetlands development and restoration techniques, as specified in § 230.75(d), are not required.

4. Section 230.12 is amended by revising paragraphs (a)(3)(i) and (a)(3)(iii) to read as follows:

§ 230.12 Findings of compliance or noncompliance with the restrictions on discharge.

(a) * * *

(3) * * *

(i) Except as provided under § 230.10(a)(6), there is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem, so long as such alternative does not have other significant adverse environmental consequences; or

* * * * *

(iii) Except as provided under § 230.10(d)(2), the proposed discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem; or

* * * * *

[FR Doc. 92-26792 Filed 11-3-92; 8:45 am]

BILLING CODE 6560-50-M

[1] The State of Alaska is the only State with less than one percent loss of historic wetlands acreage.

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